

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.13979 OF 2018

Abhishek Dilip Bhosale

...Petitioner

vs.

Kishor Anand Mane and Ors.

...Respondents

Mr. P.D. Pise, for the Petitioner

None for the Respondents.

CORAM : M. S. SONAK, J.

DATE : MARCH 20, 2019

P.C.:

. Heard Mr. Pise, learned counsel for the Petitioner.

2. The challenge in this Petition is to the order dated 6th September, 2018 by which the Petitioner's application for impleadment as Defendant in Regular Civil Suit No. 146 of 2012 came to be dismissed.

3. The case of the Petitioner as put forth by Mr. Pise is that it is the Petitioner who is in possession of the suit premises. He states that if any decree is made in this suit in favour of the Plaintiff and against the Defendant, then it is possible that such decree will effect the interest/possession of the Petitioner. For these reasons, Mr. Pise submits that the Petitioner is necessary party to the suit.

4. At this stage, it is not necessary to go into the question that which is really in possession of the suit premises. However, it is the case of the Petitioner that the Petitioner is in the possession of the premises. Then it is only clarified that no decree made in Regular Civil Suit No. 146 of 2012 will bind or effect the Petitioner. Particularly since the Plaintiff in such suit is resisting the impleadment of the Petitioner as Defendant to the suit. In such matters, the Plaintiff, is a *Dominus Litis* and Plaintiff cannot be forced to take up proceeding against the party against the Plaintiff's wish.

5. With clarification as aforesaid, th is Petition is dismissed.

6. There shall no order as to costs.

7. The Petitioner is directed to place authenticated copy of this order before the learned trial Judge and also furnish copies of this order to Respondent Nos. 1 and 2 for their information.

(M. S. SONAK, J.)