

SAS

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.2204 OF 2019

Anil Waghmare ..Petitioner.

V/s.

Rakhee Sachdev & Ors. ..Respondents.

Mr.R.V.Uttarwar for the petitioner.

Mr.Amjith M.A. i/b. Triyam Legal for respondent No.1 to 9.

Mr.Dnyaneshwar Kale I/b. Talekar & Associates for respondent No.23.

CORAM : M.S.SONAK, J.

DATE : MARCH 22, 2019

P.C.:-

Heard Mr.Uttarwar, learned counsel for the petitioner, Mr.Amjith, learned counsel for respondent Nos.1 to 9 and Mr.Kale, learned counsel for respondent Nos.23.

2. Challenge is to the order dated January 17, 2019 by which learned trial Judge has rejected the petitioner's application seeking impleadment of the defendant in a suit.

3. Mr.Uttarwar, learned counsel for the petitioner submits that the original plaintiffs has chosen to sue in their individual capacity. He submits that without knowing the relief applied by the original plaintiffs, it is clear that some of the reliefs in respect of the layout

permission granted to the developer. He submits that the suit by members against the society are covered under section 91 of the Maharashtra Co-operative Societies Act, 1960 is not at all maintainable. He submits that the petitioner is a necessary party or in any case a proper party and, therefore, should have been joined as a defendant in the suit.

4. Mr.Amjith and Mr.Kale learned counsel for the respondents defend the impugned order on the basis of reasons reflected therein.

5. In the present case, the petitioner, apart from raising the aforesaid contention has really not demonstrated as to why he is really a necessary party or even a proper party. Learned trial Judge observed that both the Co-operative Society as well as the developer are parties to the suit. In case the petition has any grievance, the petitioner is at liberty to take out appropriate proceedings for redressal of the said grievances. However, the petitioner cannot be added as a party to the suit, more particularly, since, the original plaintiff did not desire him to be a party and further, does not claim any relief against him.

6. There is no jurisdictional error in the impugned order. Accordingly, this petition is liable to be dismissed and is hereby dismissed.

7. There shall be no orders as to costs.

(M.S.SONAK, J.)