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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

WRIT PETITION NO.3930 OF 2016

Nivrutti Keru Shirole	..Petitioner.
V/s.	
Vishnu Keru Shirole & Ors.	..Respondents.

Mrs. Manjari S. Parasnis for the petitioner.

Mr.Pradeep D.Dalvi for reespondent No.1.

Mr.Girish Agrawal for respondent No.2.

Mr.Sarthak Diwan with Ashutosh M.Kulkarni for respondent No.3.

CORAM : M.S.SONAK, J.

DATE : APRIL 1, 2019

P.C.:-

Heard Mrs.Parasnis, learned counsel for the petitioner, Mr.Dalvi, learned counsel for respondent No.1, Mr.Agrawal, learned counsel for respondent No.2 and Mr.Diwan, learned counsel for respondent No.3.

2. Challenge in this petition is to the order dated October 6, 2015 by which learned trial Judge has declined to implead the petitioner as a defendant in Regular Civil Suit No.226/2007.

3. Ms.Dalvi, learned counsel for respondent No.1 submits that even if the petitioner may be the brother, the petitioner is not concerned with the property in respect of which the partition is applied for. He submits that the suit property is owned only by respondent Nos.1 and 2.

The petitioner has no interest whatsoever therein. He submits that on this ground, learned trial Judge was justified in rejection the application for impleadment.

4. The petitioner's contention is that the property is co-owned by him along with respondent Nos.1 and 2. The issue as to whether this contention is right or whether the contentions raised by Mr.Dalvi is right can always be gone into at the stage of trial. Rather than requiring the petitioner to file a separate suit, it will be appropriate if all such issues are gone into in this suit itself. The impleadment will save time and multiplicity of the proceedings as the suit is for partition.

5. Accordingly, the impugned order is liable to be set aside and is hereby set aside. Respondent No.1 is directed to implead the petitioner as defendant No.5 in the suit. Necessary amendment to be carried out within four weeks from today.

6. It is made clear that all contentions of the parties have been left open for determination in the suit by the learned trial Judge.

7. The trial Judge shall not be influenced by the observations made in this order while deciding the suit on its own merits and in accordance with law.

8. All concerned to act on the basis of an authenticated copy of this order.

(M.S.SONAK, J.)