

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.5726 OF 2014

Shukrulla Abdul Rehman

...Petitioner

vs.

Iqbal Mohammed Akeel Shah and Ors.

...Respondents

Ms. Seema Sarnaik a/w. Mr. A.S. tamhane, for the Petitioner

Mr. Suresh More, for Respondent Nos. 1 to 3.

Ms. Kranti Anand, for Respondent Nos. 4 to 7.

CORAM : M. S. SONAK, J.

DATE : MARCH 18, 2019

P.C.:

. Heard Ms. Sarnaik, learned counsel for the Petitioner and Mr. Mare, learned counsel for Respondent Nos. 1 to 3 and Ms. Kranti, for Respondent Nos. 4 to 7.

2. The challenge in this Petition is to the order dated 7th May, 2014 by which the Petitioner's Chamber Summons for impleadment of the Defendant in Suit No. 263 of 2011 came to be rejected.

3. The case of the Petitioner is that the Petitioner is an allottee of Shop No. **A/14**. The Petitioner contends that the dispute

in the suit relates to Shop No. A/15. Ms. Sarnaik, learned counsel for the Petitioner points out that the Court Receiver appointed in the suit seeks to take possession of Shop No. A/14, when in fact neither the Plaintiff nor the Defendant have any interest in Shop No. A/14. She point out that both Plaintiff and Defendant have admitted that the Petitioner is an allottee in Shop No. A/14.

4. Assuming that the aforesaid case is correct, even then the Petitioner cannot seek impleadment as a party Defendant in the suit. At the highest, the Petitioner can apply to the learned trial Court and point out that though the order for appointment for Court Receiver relates to Shop No. A/15 the Court Receiver seeks to take possession of Shop No. A/14. If such application is made no doubt, the same will be considered on its own merits and disposed of. However, for this purpose there is no necessity of the Petitioner being impleaded as Defendant in the suit or being permitted to intervene in the suit.

5. Therefore, with liberty as aforesaid, this Petition is disposed of.

6. It is made clear that any observations in the impugned order dated 7th May, 2014 will not influence the consideration of the application, if made by the Petitioner seeking order that the Court Receiver does not involve himself with Shop No. A/14.
7. All contentions of all parties are however left open.
8. The Petition is disposed of in the aforesaid terms.
9. There shall be no order as to costs.

(M. S. SONAK, J.)

(This is a corrected order as per speaking to minutes order dated 11th April, 2019).