

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

WRIT PETITION NO.7195 OF 2016

Shri Parshuram Mahadu Undre
and Ors.

... Petitioners

Vs

Shri Dnyanoba Hanumant Undre and Ors.

... Respondents

...

Mr. Sudhir Vinayak Sadavarte for the Petitioner.

CORAM : SANDEEP K. SHINDE J.

DATE : JUNE 24, 2019

P.C. :

Heard Mr. Sadavarte the learned counsel for the petitioners. Respondent Nos.1 to 6 (hereinafter called 'Plaintiffs') instituted Regular Civil Suit No.993 of 2009 in the Court of Civil Judge, Junior Division, Pune against respondent nos.7 to 14 (hereinafter called 'Defendants') wherein they sought decree for removal of encroachment made on Gat No.730. The suit was decreed. However, the appellate Court set it aside and relegated the parties to the trial Court by passing an order of remand. Pending suit, the surveyor from the office of TILR, was appointed for

measuring boundaries of the suit land. It appears that defendants are in possession of the Gat No.727/1 which is abutting the land of the plaintiffs. Surveyor issued notice to the petitioners, who are in possession of the land bearing Gat No.727/2. Upon receiving the notice from the TILR, the petitioners learnt about the pending suit, between the respondent nos.1 to 6 and 7 to 14.

2 Petitioners, therefore, applied and requested the Trial Court to implead them as party defendants on the premise that outcome of the suit may affect their interests and rights. The trial Court rejected the said application on 25th August, 2015, against which, this Writ Petition under Article 227 of the Constitution of India is preferred.

3 Admittedly, notices were issued by the surveyor to the petitioners. It, therefore, shows that petitioners' land is abutting the land of the plaintiffs and the defendants in the suit. Though the suit is for removal of encroachment allegedly made by defendants, fact remains that the decree of the suit may affect interest of the petitioners and, therefore, in my view, impleadment of the

petitioners is necessary for effective adjudication of the issues and to protect interest of the petitioners.

4 Thus, for the reasons stated, the impugned order dated 25th August, 2015 is quashed and set aside and the application filed by the petitioners below Exhibit 58 in Regular Civil Suit No.993 of 2009 is allowed.

5 Petition is disposed of in the aforesaid terms.

(SANDEEP K. SHINDE, J.)