

Anand

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

WRIT PETITION NO. 4134 OF 2018

Lata Bhagirath Gogwale

.Petitioner

Vs.

Suresh Bhausaheb Kevate & ors.

.Respondents

Mr. Rajesh A. More, Advocate, for the Petitioner

CORAM : REVATI MOHITE DERE, J.

DATE : 16.01.2020

P. C.

. Heard learned counsel for the Petitioner.

2. By this Petition, the Petitioner has impugned the order dated 06.12.2017 passed by the learned 14th Jt. C. J. J. D., Pune below Exh. 153 in R. C. S. No. 554 of 2007, by which the learned Judge was pleased to reject the Petitioner's Application for impleading her as a party to the suit under O. I, Rule 10(2) of the Code of Civil Procedure (for short "C. P. C.").

3. Learned counsel for the Petitioner submits that the Petitioner is a necessary party to the said suit instituted by the Respondent Nos. 1 to 9. He submits that the Petitioner had purchased the suit property from the Power of Attorney Holder of the Defendant

Nos. 1 to 3. He submits that the Petitioner has also filed a suit for specific performance as against the Defendant Nos. 1 to 3 and Power of Attorney Holder of the Defendant Nos. 1 to 3 i. e. Mr. Bhutada in R. C. S. No. 554 of 2007. He submits that the Petitioner had also paid part consideration for the property in question sold by the Defendant Nos. 1 to 3 to the Plaintiffs.

4. Perused the papers including the impugned order. R. C. S. No. 554 of 2007 has been filed by the Respondent Nos. 1 to 9 (Plaintiffs) in the Court of the learned Jt. C. J. J. D., Pune for declaration and injunction as against the Respondent Nos. 10 to 12 i. e. the Original Defendant Nos. 1 to 3. The said suit has been filed by the Respondent Nos. 1 to 9 on the basis of the suit property purchased in Court auction. It appears that during the pendency of the said suit, the Petitioner herself also filed an Application seeking to be impleaded as a party to the suit under O. I, Rule 10(2) of the C. P. C.. As noted above, the Petitioner's contention was that she had purchased the said suit property from the Power of Attorney Holder of the Respondent Nos. 10 to 12 (Original Defendant Nos. 1 to 3), for a consideration. The said Application was opposed by all the parties. The learned trial Judge after hearing the parties was pleased to reject the Petitioner's Application. In the suit instituted by the Respondent Nos. 1 to 9 i. e. R. C. S. No. 554 of 2007, the Respondent Nos. 1 to 9 (Original Plaintiffs) have prayed for

declaration of their ownership over the suit property and for injunction against the Defendant Nos. 10 to 12 (Original Defendant Nos. 1 to 3). The said suit property was purchased by the Respondent Nos. 1 to 9 / Plaintiffs in a Court auction. It is not in dispute that the Petitioner filed a suit as against the Respondent Nos. 10 to 12 and their Power of Attorney Holder – Mr., Bhutada which is pending. It is pertinent to note that in the Written Statement filed by the Respondent Nos. 10 to 12 in R. C. S. No. 554 of 2007, there is no mention of any transaction with any third party, much less the Petitioner. Admittedly, the Power of Attorney Holder – Mr. Bhutada is not a party to the suit in R. C. S. No. 554 of 2007 and Respondent Nos. 10 to 12 (Original Defendant Nos. 1 to 3) have not mentioned a word about Mr. Bhutada in their Written Statement.

5. In this view of the matter, no infirmity can be found in the impugned order dated 06.12.2017 passed by the learned 14th Jt. C. J. J. D., Pune below Exh. 153 in R. C. S. No. 554 of 2007. The Petition, being devoid of merits, is dismissed.

(REVATI MOHITE DERE, J.)