

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

WRIT PETITION NO. 6341 OF 2021

Harischandra Pandurang Bhoi	...Petitioner
vs.	
Musab Anis Dolare & Ors.	...Respondents
and	
Salman Anis Dolare	...Applicant

Mr.Vishal Kanade and Kunal Ghatkar i/b.Nishra Mehra for Petitioner.
Mr.Kishore Patil for Applicant.

CORAM : BHARATI DANGRE, J.

DATED : 8 OCTOBER 2021

P.C. :

1. The Petitioner is aggrieved by an order passed by Senior Judge, Senior Division, Kalyan, on an application referred to it under Order 22 Rule 10 of the CPC by Respondent No.1.

2. Heard learned Counsel, Mr.Kanade, for the Petitioner. Perused the documents placed on record. I have also heard Counsel for Respondent No.1. In the wake of the limited controversy, which is restricted to only defendant No.1, notice to other Respondents is not necessary.

3. The Petitioner, who is the plaintiff, instituted Special Civil Suit No.348/2016 for temporary injunction under Order 39 Rules 1 and 2 of the Code. In the said suit, Exhibit 5 has been allowed on 26 October 2018. It can be seen from the record that Special Civil Suit No.303/2015 was earlier instituted by Respondent No.1 against Respondent Nos.2 to 6 and

the plaintiff's claim in Special Civil Suit No.348/2016 is to the effect that it is a collusive suit and the decree passed in the said suit do not bind him.

4. On an appeal from order being instituted by defendant No.1, the Single Judge of this court recorded a *prima facie* finding to the effect that Respondent No.1 has instituted Special Civil Suit No.348/2016 to overreach the decree passed in Special Civil Suit No.303/2015. This constrained the present Petitioner to approach the Hon'ble Apex Court where the parties consented to maintain status quo till the disposal of the suit. On this concession being made, the Hon'ble Apex Court directed the trial court to dispose of suit as expeditiously as possible. While proceedings were going on before the Hon'ble Apex Court and a miscellaneous application was instituted by the present Respondent No.1 and one Salman Anis Dolare along with one Bilal Ansar Kamle and the intervention was sought on the ground that Applicant No.1 had acquired rights of the suit through a gift deed and relinquishment deed and that is how the entire property came to his possession. Applicant No.2 before the Apex Court sought intervention on the ground that he was appointed as a developer by Applicant No.1. On hearing the said application, the application was remitted to the trial court, which was permitted to take a decision on its merits. Accordingly, the application was preferred by Salman Anis Dolare under Order 22 Rule 10 of CPC seeking his impleadment in Special Civil Suit No.348/2016.

The learned Judge, by a detailed order, has considered the objections to the application filed under Order 22 Rule 10 and had recorded that since defendant No.1 has lost the interest in the suit property in the wake of both the deeds which were placed on record and these deeds had created interest in favour of the Applicant in the suit property, his impleadment had

become essential. The objection raised on the point of delay has rightly been turned down on the ground that as there was no limitation which can be said to be invoked by moving an application under Order 22 Rule 10. Perusal of the impugned order dated 7 September 2021 do not reflect any legal lacunae and on the other hand, the learned Judge has considered the objections which were raised to the said application in its proper prospective. Resultantly, the impugned order do not suffer from any illegality, which would warrant interference at the instance of this court. The writ petition is, accordingly dismissed.

5. At this stage, Mr.Kanade make a request for expeditious disposal of the suit, but I refrain myself from making any observation, since the Hon'ble Court, in its earlier order, has already expedited the suit.

(SMT. BHARATI DANGRE, J.)