

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

WRIT PETITION NO. 5979 OF 2019

Chandrahasya Murlidhar DeokarPetitioner
v/s.
Pune Municipal Corporation and ors. Respondents
Mr. Vijaykumar B. Dighe for the Petitioner.

CORAM: SMT. ANUJA PRABHUDESSAI, J.

DATED : 02nd JULY, 2021.

P. C. :-

. The Petitioner herein has challenged the order dated 04/10/2018 whereby learned Civil Judge, Junior Division, Pune has allowed the Application under Order 1 Rule 10 of the Civil Procedure Code, 1908 filed by the third party M/s. Sky Reality, Respondent No.3 herein.

2. Mr. Vijaykumar. B. Dighe, learned counsel for the Petitioner states that he has not sought for any reliefs against Respondent No.3 and the relief is essentially challenging the legality and validity of the notice dated 28/01/2016 issued by Respondent No.1 under Section 478(1) of MMC Act. He submits that the Respondent No.3 is neither a necessary nor a proper party and as such ought not to have been impleaded as

party to the suit.

3. The Petitioner has challenged validity of the notice issued by the Respondent No.1 for removal of the structure in the property under City Survey No.212 of Village Lohgaon, Dist. Pune, which is allegedly constructed without permission and authorization. The Respondent No.3 who has filed an Application under Order 1 Rule 10 of CPC for impleading him as a party defendant claims to have interest in the property under Survey No.212. It is the case of Respondent No.3 that the father of the Petitioner and other family members had entered into Development Agreement dated 04/07/1995 with M/s. Unique Estate Development Corporation who in turn has assigned the rights in its favour vide an Agreement of Assignment dated 01/09/2005 along with Power of Attorney. The Respondent No.3 claims that it is in possession of the subject property and that Special Civil Suit No.1160/2000 filed by one Ramesh Deokar and Vasudeo Deokar, the family members of the Petitioner for cancellation of agreement dated 17/02/1995 and Deed of Assignment dated 01/09/2005, has been dismissed on 16/11/2017. It is stated that the Respondent No.3 has carried out various developments in the property. It is thus evident that the Respondent No.3 claims to have right and interest in the property. The rights of the

Respondent No.3 will be affected by any adverse order in the suit. Under the circumstances, the Respondent No.3 has been rightly impleaded. The impugned order does not suffer from any error. There is no merit in the Petition and the same is dismissed.

(SMT. ANUJA PRABHUDESSAI, J.)