

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO.4341 OF 2020

BALASAHEB TULJARAM BEDRE
VERSUS
RADHESYAM GANESHLAL KASAT

...
Advocate for Petitioner : Mr. Girish Naik Thigale

.....
[CORAM : NITIN B. SURYAWANSHI, J.]

DATE : 16th MARCH, 2022

ORDER :

1. The Petitioner is aggrieved by the order passed by the learned Civil Judge Junior Division, Beed below Exhibit-58 in Regular Civil Suit No. 465/2015 thereby rejecting the application filed by the Petitioner/plaintiff to add Shri. Amol Aadhane as Defendant No. 2 in the suit.

2. The Respondent has filed a suit for specific performance of the agreement to sale executed by the petitioner in favour of the respondent. The petitioner resisted the suit by filing written statement wherein averment is made that Shri. Amol Aadhane had obtained a

loan from the respondent-plaintiff and for security to that loan agreement to sale was executed by the petitioner in favour of respondent. The petitioner has examined Shri. Amol Aadhane as witness No. 2. He is also cross examined by the respondent-plaintiff. In these circumstances the petitioner filed application Exhibit- 58 seeking to add Shri. Amol Aadhane as defendant No. 2 in the suit. The said application is rejected by the trial Court holding that the execution of isarpavti is not disputed. It is the option of the plaintiff to whom to join as a party in the suit. The plaintiff pleaded that Shri. Amol Aadhane is not a necessary party and no relief is claimed against him. In the isarpavti nothing is mentioned about the transaction with Shri. Amol Aadhane and therefore, direct interest of Shri. Amol Aadhane is not found in the suit. The trial Court therefore, rejected the application.

3. Admittedly, no relief is claimed against Shri. Amol Aadhane by the respondent-plaintiff. There is no reference of Shri. Amol Aadhane in the isarpavti, on the basis of which a suit for specific performance is filed by the respondent. The plaintiff is dominus litis, and therefore, the trial Court is justified in rejecting the application

filed by the petitioner seeking impleadment of Shri. Amol Aadhane as defendant No 2. Since no relief is claimed against Shri. Amol Aadhane, he is neither necessary nor proper party to the suit. The trial Court has passed a reasoned order which does not require to be interfered in the extra ordinary writ jurisdiction.

4. The learned advocate for the Petitioner in support his submissions relied on the decision in *Sumtibai and Others Vs. Paras Finance Co.* ((2007) 10 SCC 82), wherein it is held that if a party can show a fair semblance of title or interest, he can certainly file an application for impleadment. In the facts of the present case, the trial Court held that from the record semblance of interest of Shri. Amol Aadhane is not made out. In that view of the matter, this citation would not help the petitioner.

5. For the aforesated reasons, there is no merit in the petition. The petition is therefore, dismissed. No costs.

[NITIN B. SURYAWANSHI]
JUDGE