

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

WRIT PETITION 7171 OF 2022

Jamshid Kersi Dalal

...Petitioner

vs.

Jal Dinshaw Mahudawala & Ors.

...Respondents

Mr.Sugandh Deshmukh for Petitioner.

CORAM : ROHIT B. DEO, J.

DATED : 1 JULY 2022

P.C. :

1. The Petitioner is the third party who sought impleadment in the suit on the premise that the ultimate decision is likely to affect his share and interest in the suit property.

2. By an elaborate order dated 26 November 2021, the learned City Civil Court has rejected the application under Order 1 Rule 10 of the CPC.

3. The grievance of the Petitioner is that while the learned City Civil Court has observed that the Petitioner is at liberty to prefer appropriate proceeding to agitate his claimed rights, there are certain observations in the order impugned which may operate to the prejudice of the Petitioners if he institutes separate and independent proceedings.

4. In my considered view, there is no reason for the Petitioner to nurture such apprehension. If the Petitioner institutes separate and independent proceedings, it is obvious that nothing observed by the City

Civil Court Judge while considering an application under Order 1 Rule 10 of CPC, shall come in the way of the Petitioner and the rights which may be agitated in separate proceedings will have to be agitated on that own merit uninfluenced by the observation in the order impugned.

5. Subject to the aforestated observation, the petition is disposed of.

(ROHIT B. DEO, J.)