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IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

CIVIL WRIT PETITION NO. 6718 OF 2014

SMT. PRATIMA PRASANNA RASKAR

....PETITIONER

V/s.

**SHRI. NILKANTH RAJARAM RASKAR
AND ORS**

.....RESPONDENTS

Mr. Shekhar Jagtap a/w Mr. Ranjeet Nimbalkar a/w Ms. Sairuchita Chaudhary a/w Rhea Francis i/b J. S. Shekhar and Co. for Petitioner
Mr. R. V. Govilkar a/w Ms. Shaba N. Khan for Respondent nos. 1 & 2
Mr. Abhijit Kulkarni for Respondent no. 10
Mr. Nilkanth Raskar Respondent no. 1 in person

CORAM : NITIN W. SAMBRE, J.

DATE: FEBRUARY 26, 2022.

P.C.:

1) Respondent nos. 1 & 2 initiated a Suit for simplicitor injunction against Revenue Authorities claiming that Petitioner's proceedings for change in mutation entries in relation to Suit property mentioned in para 1 in the Plaint be not processed.

2) In the said Suit, Petitioner has taken out Application for impleadment under Order I Rule 10(2) of the Code of Civil Procedure,

1908 which is rejected vide order impugned. As such, this Petition.

3) Contention of Mr. Jagtap, learned counsel for the Petitioner is, Petitioner is necessary party to the Suit as the Petitioner is specifically referred to in the Plaint, particularly in para 4 whereby it is alleged that the Petitioner is likely to move for carrying out appropriate mutation entries in relation to Suit property. According to him, that being so, Petitioner, if not necessary but appropriate party to the Suit. He would claim that if so permitted, Petitioner will get impleaded and shall assist the Trial Court in expeditious disposal of the Suit.

4) Respondent no. 1 Neelkanth Raskar is personally present in the Court and has earlier engaged Mr. Govilkar to represent his interest. Mr. Govilkar informs that Respondent no. 1 who is present in the Court has instructed him not to argue the matter and further informs him that he shall be making alternate arrangement. When confronted as regards his say in the matter, Respondent no. 1 would urge that he shall be granted time to engage a lawyer and make alternate arrangement.

5) The aforesaid request on the part of Respondent no. 1 is

rejected having regard to the fact that present Petition is pending admission since 2014 i.e. for last more than 8 years. This Court on the last occasion i.e. on 22/02/2022 has granted last chance and has specifically ordered that if not assisted by the parties, the Court will be constrained to proceed ahead with the matter on its own merit.

6) I have appreciated the contention of Mr. Jagtap, learned counsel for the Petitioner.

7) The fact remains that Suit in question for grant of injunction is moved against Respondent-Defendant who are Revenue Authorities.

8) In the pleadings, there is specific mention about Petitioner wherein it is claimed that Petitioner is trying to get Suit properties mutated in her name, which revenue authority should not process.

9) In the aforesaid background, what can be appreciated is, act of the Revenue Authorities of carrying out mutation entries in accordance with law is in discharge of statutory duty. Revenue Authorities are sought to be enjoined to carrying out mutation entry in the name of the Petitioner. That being so, Petitioner if not necessary, atleast appropriate party to the proceedings. The Suit

claim cannot be effectively decided in absence of Petitioner whose right to get mutation entry in her name is sought to be adjudicated in her absence. As such, Petition stands allowed. Order impugned passed below Exh. 39 in R.C.S. No. 40/2013 is hereby quashed and set aside.

10) Plaintiff to carry out appropriate amendment in the Suit within period of 4 weeks by impleading the Petitioner as party Defendant.

11) If the Plaintiff failed to carry out such amendment within period of 4 weeks, Petitioner is permitted to carry out such amendment. Counsel for the Petitioner undertakes that once such amendment is carried out, he shall file his written statement within period of 4 weeks thereafter.

12) Since Suit is pending since 2013, hearing of the same is expedited. Petition stands allowed in the above terms.

[NITIN W. SAMBRE, J.]