

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

WRIT PETITION NO.7569 OF 2013

Shri. Jaswant Chandulal Shah

..Petitioner

Versus

Shri. Sardarmal Chunilal Chavan and Anr.

..Respondents

Ms. Aruna G. Koli, for the Petitioner.

Mr. Ganesh Gupta, for the Respondents.

CORAM : NITIN W. SAMBRE, J.

DATE : 23rd MARCH, 2022

PC.

1. In a suit for possession preferred by the respondent being RCS No.2 of 2008, the defendant, an unregistered association was represented by Shri. Shantilal Sardarmal Parmar, whose legal heir was brought on record after his death. The legal representative gave a pursis that since he is not president of the defendant association is not willing to file written statement. As such, suit proceeded further.

2. The present petitioner claiming to be president of an unregistered association sought impleadment which is rejected vide impugned order passed below Exh.41 on 5th April, 2013. As such, this petition.

3. The Court below, in my opinion, was justified in

recording finding that the respondent/plaintiff is *dominus litis* and his failure to implead petitioner as party defendant to the suit will follow necessary consequences. As far as claim of the present petitioner is concerned, there is hardly any material on record to infer that he has succeeded to the interest of the defendant in the suit property.

4. As such, keeping such option open to the petitioner to establish his claim that he has succeeded to the interest of the defendant by taking recourse to appropriate proceedings, if so required. That being so, I hardly see any reason which warrants interference in the order impugned.

5. The petition as such stands dismissed.

[NITIN W. SAMBRE, J.]