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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO. 6051 OF 2022**

Ramrao Jeevanrao Deshmukh Petitioner.
V/s
Sanjay Mithulal Munot and Ors. Respondents

Mr. Jamsheed Master a/w Natasha Bhot i/b D.D. Abhijit & Associates
for the Petitioner.
Mr. Sachin S. Punde for Respondent No.4.

CORAM: NITIN W. SAMBRE, J.

DATE: JULY 27, 2022

P.C.:-

1] In probate proceedings being Misc. Application No.1085 of 2007, prayer of the Respondent who claims to be step-son of deceased in relation to whose property probate was sought has moved prayer for impleadment. Said prayer made under Application-Exhibit-16 came to be allowed vide order impugned dated 6th August, 2018 passed by 7th Jt. Civil Judge, Senior Division, Pune. As such, this Petition.

2] Counsel for the Petitioner/original Applicant would urge that in the probate proceedings, third party, even if he is a step-son, cannot

seek impleadment as of right. According to him, said law is well settled. In support of his contentions, he has relied on the judgments of this Court in the matter of *Dudhnath Kallu Yadav vs. Ramashankar Ramadhar Yadav and Ors* reported in **2018(2) Mh.L.J. 638** as also in the matter of *Eruch Rustom Irani vs. Limji Kaikashroo Panday* reported in **(1992) 2 Mah LJ 1198**. He would further urge that right of Respondent-Applicant in Exhibit-16 is restricted to the extent of lodging objection to the probate proceedings. However, he cannot claim himself to be appropriate or necessary party.

3] Counsel for Respondent No.4 would oppose the aforesaid claim, as according to him, impleadment is rightly granted vide order impugned considering blood relation with the deceased.

4] I have appreciated said submissions.

5] Petitioner/Applicant is a *dominus litis*. It is for him to decide as to whom to be impleaded as party. Right of the Respondent No.4 to the extent of lodging objection in pending probate proceedings is

always available. However, such right cannot be read to mean that third party i.e. Applicant in Exhibit-16 is a necessary or proper party to the said probate proceedings. Rightly so pointed out by Counsel for the Petitioner, aforesaid issue is squarely covered by the aforesaid two judgments in the matter of *Dudhnath Kallu Yadav* and *Eruch Rustom Irani*.

6] That being so, order impugned passed below Exhibit-16 by the 7th Jt. Civil Judge, Senior Division, Pune on 6th August, 2018 is hereby quashed and set aside. Application-Exhibit-16 stands rejected.

7] However, aforesaid order shall not come in the way of third party who is Applicant in the aforesaid Exhibit-16 to lodge objection in the probate proceedings which, if lodged, be decided in accordance with law.

8] Petition is allowed in the aforesaid terms.

(NITIN W. SAMBRE, J.)