

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.2649 OF 2023

Bhupal Mahipati Shete

...Petitioner

Versus

Sanjay Shivajirao Bhosale and Others

..Respondents

Mr. Niranjan Bhavake i/b. Bhavake and Associate for the Petitioner.

Mr. Kush M. Lahankar i/b. Mr. Abhijit Adagule for Respondent Nos.2 to 5.

Coram : Sharmila U. Deshmukh, J.

Date : 20th July , 2023.

P. C. :

1. Heard.
2. The challenge in the Petition is to the order dated 25th August, 2021 passed below Exhibit 26 rejecting the Petitioner's application for impleadment under the provisions of Order I Rule 10(2) of the Code of Civil Procedure.
3. Learned counsel appearing for the Petitioner submits that at the instance of the Petitioner a complaint came to be filed in which the Committee was constituted by the Kolhapur Municipal Corporation and the findings of the Committee being adverse to the Respondent No.1 the proceedings in question i.e. Regular Civil Suit No.583 of 2021 came to be instituted. He would further point out that

as the Petitioners had participated in the proceedings before the Committee and filed his say he is a necessary party to the proceedings. He would further urge that in the plaint there are certain allegations which are made against the Petitioner and as such he is required to be impleaded.

4. Considered the submissions.

5. Regular Civil Suit No.586 of 2021 has been instituted by the Plaintiff against the Kolhapur Municipal Corporation through its Commissioner and other Committee members challenging the order of constitution of Committee dated 1st October, 2020 as well as the show cause notice dated 3rd August, 2021. If we peruse the prayer clause of the Appeal there is no relief sought against the Petitioner. In this proceeding the only issue which will be considered is the validity of the constitution of the Committee, the Committee report as well as the validity of the show cause notice issued to the Respondent No.1 pursuant to the report of the Committee. The trial Court while dismissing the application has rightly considered that the Respondent No.1 is neither a necessary party nor a proper party and if the Petitioner has sufficient materials/evidences against the Respondent No.1 in that event he can be examined as a witness. The trial Court considered the averments made in the plaint and has held that the impleadment of the Petitioner will widen the scope of issue which will

be required to adjudicate the suit. Considering the relief of impleadment and the averments made in the plaint in my opinion the Petitioner is neither a necessary party nor a proper party. Only challenge in the proceedings is to the report of the Committee and the consequent show cause notice issued to the Respondent No.1.

6. In the facts of the case there is no infirmity in the order dated 25th August, 2021 rejecting the Petitioner's application for impleadment. Merely being a complainant does not entitle the Petitioner to be impleaded in the subsequent proceedings unless it is shown that the Petitioner is bound to be affected by the outcome of the proceedings. In the present case I do not find that the Petitioner has any direct interest or that the result of the proceedings will affect his rights. In that view of the matter there is no merit in the Writ Petition.

7. Writ Petition stands dismissed.

[Sharmila U. Deshmukh, J.]