

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 2783 OF 2023

Krushna Govind Raje (Gunadekar)

....Petitioner

V/s.

Sitaram Pandurang Bane and Ors.

....Respondents

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Mr. Sachin S. Punde, for the Petitioner.

CORAM : SANDEEP V. MARNE, J.

Dated : August 18, 2023.

P.C. :

1. By this petition, Petitioner challenges order dated June 11, 2019 passed by the Trial Court rejecting his application for impleadment as a party Respondent under the provisions of Order 1 Rule 10 of the Civil Procedure Code (**Code**).

2. Plaintiffs have filed Regular Civil Suit No.77/2006 for removal of encroachment on the suit property bearing Gat No. 340-A. Petitioner claims right in respect of the neighbouring property bearing Gat Nos. 338 and 339. Admittedly, Petitioner

does not claim any right in respect of the suit property bearing Gat No. 340-A.

3. Mr. Punde, the learned Counsel appearing for Petitioner would submit that the construction erected by the Defendants actual falls in the land bearing Gat Nos. 338 and 339 and that therefore Petitioner is the necessary party in Regular Civil Suit No. 77/2006. He would further submit that the Petitioner has instituted his own independent suit to seek demolition of construction erected by the Defendants on land bearing Gat Nos. 338 and 339 and expresses an apprehension that the finding recorded in Regular Civil Suit No.77/2006 would affect Petitioner's own independent suit.

4. The subject matter of dispute in Regular Civil Suit No.77/2006 concerns suit property bearing Gat No.340-A with which Petitioner admittedly does not have any concern. Though his name is reflected in the plaint, the same is essentially to describe the location of the suit property bearing Gat No.340-A. Petitioner has already instituted his independent suit for removal of encroachment in respect of his property bearing Gat Nos. 338 and 339. Since Petitioner is not a party defendant to Regular Civil Suit No.77/2006, the decree passed therein would not bind him. For the same reason, any observation made by the Court while deciding Regular Civil Suit No.77/2006 would not affect the interest of

Petitioner in respect of his own independent suit. In my view, Petitioner is not a necessary party to Regular Civil Suit No.77/2006. The Trial Court has rightly rejected his application for impleadment. Writ Petition being devoid of merits is **dismissed** without any order as to costs.

SANDEEP V. MARNE, J.