

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

CIVIL WRIT PETITION NO. 4195 OF 2022

Arvind Maruti Sarvgod Through
POA holder Siddharth Maruti Sarvgod ..Petitioner
Versus
Rasul Suleman Shaikh & Anr. ..Respondents

Mr. Jitendra P. Gaikwad, for Petitioner.

**CORAM : SARANG V. KOTWAL, J.
DATE : 10 MARCH 2023**

PC :

1. This petition is filed to challenge partially the order dated 21/01/2022 passed below Exh.40 in R.C.S.No.913 of 2018, by 5th Jt. C.J.S.D., Solapur, rejecting the petitioner's application for amendment to the plaint. The petitioner was the original plaintiff. He had filed a suit against two defendants for declaration and perpetual injunction. The subject matter of the suit was the premises in Plot No.63, Tilak Nagar-3, Solapur. The petitioner had filed an application for amendment to the plaint under O.6, R.17 of the C.P.C. vide Exh.40. He sought to correct the description of the suit property and the second amendment sought by him was

for addition of Solapur Municipal Corporation as the defendant No.3. Said application was partly allowed by the impugned order. The petitioner was allowed to carryout the amendment in respect of the registered sale deed, however, the prayer for addition of the Solapur Municipal Corporation as the defendant no.3 was rejected.

2. Learned counsel for the petitioner submitted that the petitioner is not claiming any substantial right against the Solapur Municipal Corporation, however, they are required to be added as the defendant No.3.

3. I have considered the submissions made by learned counsel for the petitioner. I have also perused the impugned order. Learned trial Judge has given reasons as to why the first part of the amendment was allowed. It was observed that, subsequent to the filing of the suit the sale deed was executed in respect of the suit property and, therefore, it was the relevant fact. However, the prayer for adding the Solapur Municipal Corporation was rejected on the ground that no notice U/s.487 of the Maharashtra Provincial Municipal Corporation Act, 1949 was given.

4. As far as first part of the amendment is concerned, there is no grievance made by the petitioner. In fact, it was allowed. He has grievance only for rejection of his prayer for adding the Solapur Municipal Corporation as a party defendant. In the amendment application there is no proposed amendment which would make out the necessity for adding the Solapur Municipal Corporation as a party defendant. There are no pleadings in the plaint which would necessitate addition of the Solapur Municipal Corporation as a party defendant. Therefore, I see no reason as to why the Solapur Municipal Corporation is required to be added as the defendant No.3 in the suit. I do not find any merits in the petition. It is accordingly dismissed.

(SARANG V. KOTWAL, J.)