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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO. 6599 OF 2021

Dargah Khwaja Makhdum Shaikh ... Petitioners
Shalluddin Siddhique Ul-ghaji Chisti Nijami
(also known as Shaikh Sall Durgah) and
Ors.

vs.

Pune Zilla Bakery Mal Utpadak Sahakari ... Respondents
Grahak Sanstha Maryadit and Ors.

Mr. Ajit Anekar a/w. Ms. Madhuri Rawat i/b. Auris Legal for
the Petitioners.

Mr. Ashok Tajane for Respondent nos. 2 to 6.

CORAM : SANDEEP V. MARNE, J.

DATED : 21 FEBRUARY, 2023

P.C. :-

1. By this Petition the Petitioner assails order dated September 23, 2021 passed by the District Judge-7, Pune rejecting his application filed under provisions of Order 1 Rule 10 of the Code of Civil Procedure seeking impleadment in Regular Civil Appeal No. 626 of 2013.

2. Respondent nos. 2 to 6 had instituted Civil Suit No. 460 of 2007 in the Court of Small Causes, Pune against Respondent

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no. 1 for eviction. The suit came to be decreed on June 28, 2013. The decree is challenged by Respondent no. 1 by filing Regular Civil Appeal No. 626 of 2013.

3. The Petitioners claim to be owners of land in question. Respondent nos. 2 to 6 claim to be landlords of the suit property. It is contended by the Petitioners that the Suit property is owned by Trust and without obtaining permission of the Charity Commissioner, the Suit property could not have been leased in favour of Respondent nos. 2 to 6. The possession of Respondent nos. 2 to 6 is accordingly branded as unauthorised.

4. The Appellate Court has rejected the application of the Petitioner *inter alia* holding that the Petitioner Trust is at liberty to pursue independent proceedings against the Respondents for recovery or possession of the property.

5. I do not find any error being committed by the Appellate Court in passing the impugned order. However there is only one area which needs clarification. If and when the Petitioners adopt independent proceedings for recovery of property against the Respondents, any orders that may be passed in

Civil Suit No. 460 of 2007 or Regular Civil Appeal No. 626 of 2013 will not come in the way of Petitioners seeking relief against the Respondents in such independent proceedings.

6. With the above observations Writ Petition is disposed of. No costs. All contentions of the parties on merits are kept open.

(SANDEEP V. MARNE, J.)