



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH : NAGPUR

Writ Petition (WP) No. 2367 of 2021

Siddhaganesh Samajik Sanstha and Trust, Tq. and Dist. Akola

Versus

Vidarbha Carrom Association and another

Office Notes, Office Memoranda of
Coram, appearances, Court's Orders
or directions and Registrar's order

Court's or Judge's Order

Shri U.J.Deshpande, Advocate for the petitioner.

Shri A.S.Thotange, Advocate for the respondent no.2.

CORAM : ANIL S. KILOR, J.

DATED : 27th SEPTEMBER, 2023.

Heard.

2. In this writ petition, the challenge is raised to the order below Exhibit 11 dated 16th January, 2021, rejecting the application moved under Order 1 Rule 10 of the Code of Civil Procedure by the petitioner for adding the petitioner-Trust as a party.

3. It is the case of the petitioner that petitioner-trust is consist of local resident Raut Wadi area and plot in the said area namely plot No. 1/49 bearing sheet No. 76-D was allotted by the Corporation to the respondent no.1 on the basis of lease to the

respondent no.1 contrary to the regulations and circular dated 10th June, 1996.

4. It is further case of the petitioner that though there is no authority or power to the Corporation to lease out the said land to third persons, it was illegally leased out and therefore there is a collusion between the respondent no.1 and defendant Corporation.

5. It is submitted that in earlier suit i.e. Regular Civil Suit No. 91 of 2010 filed for the similar relief by the respondent no.1 against the respondent no.2 which, it was compromised and the Corporation agreed to renew the lease in favour of the plaintiff i.e. respondent no.1, therefore, there is an apprehension in the mind of the petitioner that the Corporation would again in collusion will adopt similar tactics and thereby compromised the matter. It is therefore submitted that to assist the Court and to point the correct position of law, the presence of the petitioner-Trust is necessary.

6. On the other hand, learned counsel for the respondent no.2 has pointed out that the apprehension expressed by the petitioner is misconceived for the reason that this time no compromise has entered into between the parties and today the matter is fixed for argument after completion of the evidence.

7. It is further submitted that no relief is sought against the petitioner in the suit and therefore he prays for dismissal of the suit.

8. After considering the submissions of the learned counsel for the respective parties and after going through the impugned order coupled with the fact that by the time this matter comes up for final hearing the suit has reached to the stage of argument, I am of the opinion that the apprehension expressed by the petitioner to get impleaded as a party to the suit, has no basis.

9. Furthermore, I am of the opinion that if the application moved by the petitioner under Order I Rule 10 of Code of Civil Procedure is allowed at this stage, it will further delay the suit and when there is no prayer against the petitioner-Trust, I do not find any reason to interfere with the impugned order.

10. Moreover, the whole case of the petitioner is based on legal submission, that is whether the Corporation has any authority to lease out the plot in the layout to a third person or not.

11. Secondly, the petitioner has remedy to file appeal by seeking leave in case of any adverse order to the interest of the petitioner is passed in the suit.

12. In the circumstances, I do not find any reason to interfere with the impugned order. Accordingly, the writ petition is dismissed with liberty to the petitioner that if any order is passed adverse to the interest of the Trust or the members of the Trust, the petitioner may apply for grant of leave to file appeal against such judgment and decree.

[ANIL S. KILOR, J.]