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

WRIT PETITION NO. 6458 OF 2018

Bhauso Balappa Dalvi

.. Petitioner

Versus

Laxmi Rama Chavan and Ors.

.. Respondents

-
- Mr. Sandeep Koregave, Advocate for Petitioner.
 - Mr. Shantanu Patil i/by A.M. Adagule, Advocate for Respondent Nos.8 to 10.
 - Mr. C.D. Mali, AGP for Respondents – State.
-

CORAM : MILIND N. JADHAV, J.

DATE : JANUARY 31, 2024.

P.C.:

1. Heard Mr. Koregave, learned Advocate for Petitioner; Mr. Patil, learned Advocate for Respondent Nos.8 to 10 and Mr. Mali, learned Advocate for Respondents – State.

2. This Writ Petition takes exception to the order dated 16.02.2017 passed in Application filed below Exhibit “22” by the learned Trial Court rejecting the Application of the Petitioner who was Intervenor seeking impleadment as a Defendant in the Suit proceedings. The Suit proceedings are filed by two Plaintiffs namely Laxmi Rama Chavan and Bhikaji Rama Chavan who are the wife and son of Rama Chavan seeking to challenge a registered sale deed dated 01.06.2015 in respect of some of the suit properties *qua* private

Defendant Nos.6 to 9. The Suit properties are described in paragraph No.1B and amended paragraph No.1C of the plaint on page Nos.45 and 46 of the Writ Petition.

3. In the present Writ Petition, I am concerned with the two specific properties namely Gat No.371 and Gat No.375 only. This is so because Petitioner who has sought impleadment by filing Application below Exhibit “22” and represented by Mr. Koregave would contend that he is infact the purchaser of the two properties i.e. Gat No.371 and Gat No.375 by virtue of a registered sale deed executed between the Petitioner and Rama Shiva Chavan (predecessor-in-title of the Plaintiffs before the Trial Court).

4. Mr. Koregave has drawn my attention to Exhibit “A” to the Writ Petition which is the registered conveyance between the Petitioner and Rama Shiva Chavan reading of which reveals that the properties contained in Gat No.371 and Gat No.375 have been sold to the Petitioner by Rama Shiva Chavan and he has received the entire consideration. The said document is a registered document.

5. He would submit that without taking into cognizance about the Petitioner being in possession of the aforementioned two properties since 1995, the learned Trial Court has rejected his Application for impleadment to point out all these details. Though it may be trite to say that the Suit plaint does not seek any relief as against the

Petitioner / Intervenor, but it is clearly seen from the amended portion of the Suit plaint that both the above properties sold to the Petitioner namely Gat No.371 and Gat No.375 have been included in the array of properties in the Suit plaint.

6. *Prima facie*, in the Suit it is seen that challenge is maintained to the document registered against Sr. No.3266 dated 01.06.2015 which is a subsequent document between the parties to the original Suit proceedings which is *dehors* the registered conveyance deed between the Petitioner and the predecessor-in-title of the Plaintiffs.

7. It therefore cannot be said by the learned Trial Court that there is no claim against the Petitioner / Intervenor in the Suit especially when the very same properties of the Petitioner are enjoyed by him for the last almost 30 years. Impleadment of the Petitioner is therefore absolutely necessary, rather the learned Trial Court should clearly examine the case of the Petitioner / Intervenor, the registered sale deed of the Petitioner / Intervenor *qua* the registered deed in respect of which cancellation is sought by the successors-in-title of Rama Shiva Chavan and only thereafter pass appropriate orders. The impugned order dated 16.02.2017 is clearly not sustainable and deserves to be quashed and set aside. The order dated 16.02.2017 is therefore quashed and set aside.

8. There is one more reason brought to my notice by Mr. Koregave that another Suit for injunction was filed by the successors-in-title of Rama Shiva Chavan in respect of the very same properties being Regular Civil Suit No.1100324 of 2013 and it has been dismissed on 25.11.2022 for non-prosecution. He has placed the information obtained from the website of the Civil Court on record in the present Writ Petition. The same is taken on record and marked “X” for identification.

9. In view of the above, the Writ Petition has to succeed.

10. Application filed below Exhibit “22” stands allowed by this Court. Impleadment shall be permitted by the learned Trial Court within a period of two weeks from today for bringing the Petitioner on record as Defendants in Regular Civil Suit No.44 of 2016. The learned Trial Court is directed to take cognizance of the aforesaid observations and findings while determining the further proceedings in the present Suit strictly in accordance with law.

11. The learned Trial Court is requested by this Court to dispose of pending Suit as expeditiously as possible and preferably within a period of 1 year from today.

12. The learned Trial Court is directed not to grant any unnecessary adjournments to the parties unless absolutely necessary.

13. With the above directions, Writ Petition is disposed.

[MILIND N. JADHAV, J.]

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Date: 2024.01.31
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