

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

WRIT PETITION NO.16808 OF 2024

Arjun Keshiv Manjarekar

...Petitioner

Versus

Chandraprakash s/o
Gorakhnath Singh and Anr.

...Respondents

**WITH
WRIT PETITION NO.16697 OF 2024**

Kisan Govind Shinde

...Petitioner

V/s.

Chandraprakash s/o Gorakhnath
Singh and Anr.

...Respondents

**WITH
WRIT PETITION NO.16805 OF 2024**

Kamal Babu Sankpal

...Petitioner

Versus

Chandraprakash s/o
Gorakhnath Singh and Anr.

...Respondents

**WITH
WRIT PETITION NO.16806 OF 2024**

Suraj Kumar Chandrabhushan
Singh

...Petitioner

Versus

Chandraprakash s/o
Gorakhnath Singh and Anr.

...Respondents

**WITH
WRIT PETITION NO.16812 OF 2024**

Chandrabhushan Jairam Singh

...Petitioner

Versus

Chandraprakash s/o
Gorakhnath Singh and Anr.

...Respondents

**WITH
WRIT PETITION NO.16811 OF 2024**

Gopal Natvarlal Shah

...Petitioner

Versus

Chandraprakash s/o
Gorakhnath Singh and Anr.

...Respondents

**WITH
WRIT PETITION NO.16831 OF 2024**

Rajanikant B. Rajemahadik

...Petitioner

Versus

Chandraprakash s/o
Gorakhnath Singh and Anr.

...Respondents

**WITH
WRIT PETITION NO.16807 OF 2024**

Ghanshyam R. Pandey

...Petitioner

Versus

Chandraprakash s/o
Gorakhnath Singh and Anr.

...Respondents

**WITH
WRIT PETITION NO.16810 OF 2024**

Vijaya Milind Kadam

...Petitioner

Versus

Chandraprakash s/o
Gorakhnath Singh and Anr.

...Respondents

**WITH
WRIT PETITION NO.16814 OF 2024**

Devchand Champsai Chheda

...Petitioner

Versus

Chandraprakash s/o
Gorakhnath Singh and Anr.

...Respondents

**WITH
WRIT PETITION NO.16816 OF 2024**

Ramkrishna B. Parab

...Petitioner

Versus

Chandraprakash s/o
Gorakhnath Singh and Anr.

...Respondents

Mr. Mehul Shah with Mr. Abhishek Nikharge for the Petitioner.
Mr. Kuldeep Singh for Respondent No.1 in WP/16697/2024.

CORAM : SANDEEP V. MARNE, J.

Dated : 14 November 2024.

P.C. :-

1) Some of the Petitions are not on board. Upon being mentioned, taken on board.

2) It appears that the issue involved in the present Petitions is fully covered by decision of this Court in ***Kailas V. Kumar V/s. Chandraprakash S/o. Gorakhnath Singh & Anr.***¹ Said Petition is disposed of by order dated 10 September 2024 clarifying that the Petitioner therein would be in a position to obstruct the decree as and when passed, and establish his own independent right, if any, in respect of the suit premises. This Court accordingly refused to set aside the order passed by the Appellate Bench of the Small Causes Court, which had in turn set aside the order passed by the learned Judge of the Small Causes Court allowing application filed by the Petitioner therein for impleadment under provisions of Order I Rule 10 of the Civil Procedure Code, 1908.

3) In my view the order dated 10 September 2024 fully governs the present cases as well. Said order dated 10 September 2024 reads thus:-

1) The Petition challenges order dated 11 August 2023 passed by the Appellate Bench of Small Causes Court allowing the Revision Application No. 48 of 2021 filed by Respondent-Plaintiff and setting aside the order dated 11 March 2020 passed by the learned Judge of the Small Causes Court. By

1. Writ Petition No.14285 of 2023, decided on 19 September 2024.

order dated 11 March 2020, the learned Judge had allowed the application filed by the Petitioner at Exhibit 11 for his impleadment under provisions of Order-I Rule 10 to of the Code of Civil Procedure, 1908. The Appellate Bench has reversed the order dated 11 March 2020 and has dismissed Petitioner's application for impleadment at Exhibit - 11.

2) I have heard Mr. Shah, the learned counsel appearing for Petitioner and Ms. Bhuta the learned counsel appearing for Respondents/Plaintiffs.

3) After having considered the submissions canvassed by the learned counsel appearing for the parties, it is seen that the Plaintiff has instituted the suit against Defendant for eviction. Petitioner claims that he is in possession of the suit premises and is in fact the owner thereof. The Appellate Bench has denied entry to the Petitioner in the suit on the ground that Petitioner's entry to the suit would change the track of enquiry and would lead to contesting claim between Petitioner and the Plaintiff with regard to the title of the suit. In my view, no error is committed by the Appellate Bench by making the said observation. At the same time, Plaintiff has taken the risk of filing the suit against the Defendant, who is apparently not in possession of the suit premises. If Petitioner is in actual possession of the suit premises, and since he is being denied entry to the suit, the decree passed in the suit would obviously not bind the Petitioner. In the event, Plaintiff secures a decree against Defendant, and the decree is put in execution, Petitioner would be in a position to obstruct the said decree and establish his own independent right, if any, in respect of the suit premises. The Plaintiff, being dominus litus in respect of his own suit, cannot be forced to implead Petitioner against whom he does not desire to seek any relief.

4) In that view of the matter, since the decree passed in R.A.E. and R Suit No.1033 of 2018 would not bind the Petitioner, it is not necessary that the Petitioner is impleaded as Defendant in the suit. Therefore, there is no reason to interfere with the order passed by the Appellate Bench.

5. With the above clarifications, the Writ Petition is disposed of.

4) Accordingly, Petitioners cannot be impleaded in the Suits for the reasons recorded in the order dated 10 September

2024. It is however, clarified that in the event of the Plaintiff securing decrees in the Suits, and as and when such decrees are put in execution, Petitioners would be free to present obstruction to execution of such decrees and establish their own independent rights, if any, in such obstruction proceedings.

5) With the above clarifications, Writ Petitions are disposed of.

[SANDEEP V. MARNE, J.]