

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

BENCH AT AURANGABAD

...

49 APEAL FROM ORDER NO. 26 OF 2015
WITH CA/4001/2015 IN AO/26/2015

KANTADEVI HARIDWARILAL AGRAWAL THROUGH POWER OF ATTORNEY
SUBHASH

VERSUS

ARVIND ATMARAM MANKOSKAR AND ANOTHER

...

Advocate for Petitioner : Mr. Manale Satish S
Advocate for Respondents : Mr. C. R. Deshpande

...

CORAM : S. V. GANGAPURWALA, J.

DATE : 14th September, 2015

PER COURT :

1. The order allowing application to add the applicant of Exh.16 as respondent no.2 is assailed in the appeal.

2. Mr. Manale, learned counsel for the appellant, submits that in fact there is no attornment of the licence, there is no assignment of right to recover rent or possession, as such, the application could not have been entertained. The application is also not for substitution as is required under Order 22 Rule 10 of the Code of Civil Procedure. Vide the impugned order, the party is added.

3. Mr. Deshpande, the learned counsel supports the order.

4. It appears that the added party is a purchaser of the suit property. Considering the fact that the suit property has been purchased by the third party, the inclusion of the third party certainly cannot be said to be an irregular exercise of jurisdiction by the lower appellate Court.

5. As far as continuation about right of the third party is concerned, it is for the trial Court to consider the same on its own merits.

6. In the light of above, the appeal from order is dismissed. No costs.

(S. V. GANGAPURWALA, J.)

JPC