

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

WRIT PETITION NO.195 OF 2015

Shri. Deepak Malhotra and others

.. Petitioners

Versus

Shri. Sunil Ramdhari Mittal and another

.. Respondents

Mr. B. S. Phad, for the Petitioners.

Mr. V. P. Vaze i/by City Legal, for the Respondent No.1.

Mr. U. S. Jain, for the Respondent No.2.

CORAM : R.M. SAVANT, J.

DATE : 20th AUGUST, 2015

PC.

1. The Writ Jurisdiction of this Court is invoked against the order dated 05.08.2014 passed by the 3rd Joint Civil Judge, Senior Division, Pune, by which order the Defendants i.e. Respondent Nos.1 and 2 herein were granted unconditional leave to defend. The suit in question has been filed by as many as ten plaintiffs who according to them were agreed to be sold plots of land by the Defendant No.1. The extent of the land agreed to be sold and the amounts paid are mentioned in the plaint and in paragraph 6 thereof. The Summary Suit in question is founded on the MOU dated 31.03.2010 entered into between the ten Plaintiffs and the Defendant No.1. In so far as the said MOU is concerned, the Trial Court

has recorded a finding that in the said MOU there is no acknowledgment of dues by the Defendant No.1. The Trial Court has also granted unconditional leave on the ground that the Plaintiff has not filed original documents in support of which Trial Court has relied upon the judgment of the Apex Court in AIR 2008 Supreme Court 1117 in the matter of Neebha Kapoor Vs. Jayantilal Khandwala and others. As indicated above, the suit has been filed on behalf of ten Plaintiffs who were the prospective purchasers from the Defendant No.1. How the summary procedure under Order XXXVII could be invoked on behalf of the said ten Plaintiffs, therefore, begs an answer.

2. Be that as it may, having regard to the reasons mentioned in the impugned order which have been referred to hereinabove, the order passed by the Trial Court granting unconditional leave to the Respondent No.1 and 2 i.e. Defendants cannot be taken exception to. Hence, no case for interference in the Writ Jurisdiction of this Court is made out. The Writ Petition is accordingly dismissed.

[R.M. SAVANT, J]