

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

WRIT PETITION NO.836 OF 2014

Shri. Suresh Maruti Thorat

.. Petitioner

Versus

Shri. Kamlesh A. Shah and others

.. Respondents

Mr. D. S. Patil, for the Petitioner.

Ms. Mamta Sadh a/w Ms. Aparna Shinde, for the Respondent No.1.

Mr. P. G. Sawant, AGP for the Respondent Nos.11 to 14.

CORAM : R.M. SAVANT, J.

DATE : 7th OCTOBER, 2015

PC.

1. The Writ Jurisdiction of this Court is invoked against the order dated 04.10.2013 passed by the Learned Joint Civil Judge Senior Division, Panvel, allowing the application Exh.52 for amendment of the plaint so as to implead the Petitioner herein as a party Defendant to the suit and challenge the Tripartite Agreement dated 10.06.2010 which is in favour of the Petitioner. The suit in question i.e. Special Civil Suit No.253 of 2010 as originally filed is one for specific performance of the Development Agreement dated 27.03.2006 filed by the Respondent No.1 herein. Since during the pendency of the suit a Tripartite Agreement came to be executed between the Defendant Nos.1 to 9, the CIDCO and the

Petitioner herein that the cause for moving the instant application Exh.52 arose as the suit in question has been filed as indicated above for specific performance of the development agreement which is in respect the same land which was to be allotted under the 12.5% scheme of CIDCO. In the factual background as above, the application Exh.52 came to be filed by the Plaintiff for amendment of the plaint. Having regard to the facts as aforestated, the Trial Court deemed it appropriate to allow the application and did not countenance the submission urged on behalf of the Petitioner that the nature of the suit changes on account of the amendment sought. The amendment can also be justified on the ground of avoidance of multiplicity of proceedings. In my view, no case for interference in the Writ Jurisdiction of this Court is made out. The Writ Petition is accordingly dismissed.

2. Needless to state that the contentions on merits in so far as the Petitioner are concerned, are kept open for being urged at the appropriate time in the suit.

[R.M. SAVANT, J]

CERTIFICATE

Certified to be true and correct copy of the original signed
Judgment/Order.