

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

WRIT PETITION NO.3913 OF 2014

Shah & Jain Enterprises

.. Petitioner

Versus

Mrs. Hansaben Narendrabhai Panchal and others

.. Respondents

Ms. Bhagyashri Gawas i/by Mr. C. K. Tripathi, for the Petitioner.

CORAM : R.M. SAVANT, J.

DATE : 1st DECEMBER, 2015

PC.

1. The order dated 14.02.2014 passed by the Learned Judge of the Small Causes Court, Mumbai, allowing the application Exh.17 directing the Plaintiff/Petitioner herein to implead the Applicants as party Defendants to the suit in question came to be allowed and the Plaintiff was directed to carry out the necessary amendment within the time stipulated in the impugned order. The application filed by the Respondent Nos.2 to 6 is founded on the Development Agreement dated 03.03.2003, in terms of which they were appointed as the sub-developers of the property in question. The said agreement envisages that if any tenant was to surrender the tenancy, it would be to the Applicants who were named as the sub-developers. It is the case of the Applicants that the Defendant to the suit had surrendered the tenancy to the Applicants and the Applicants'

sister concern and the Defendant is therefore no more a tenant and not in possession of the suit premises. It was further the case of the Applicants that they are in use, occupation and possession of the suit premises which facts have been suppressed by the Plaintiffs. The Trial Court having regard to the aforesaid facts has deemed it appropriate to allow the application Exh.17. In my view, no case for interference in the Writ Jurisdiction of this Court is made out. The Writ Petition is accordingly dismissed.

[R.M. SAVANT, J]