

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

WRIT PETITION NO.5566 OF 2015

Sunder A. Jain and ors. : Petitioners
versus
Reminder Kaur Chawla W/o Ajit
Singh Chawla and anr. : Respondents.

Mr. Rishabh Shah i/by Mr. A J Shobhawat for the Petitioners
Mr. Aditya Thakkar a/w Mr. Rahul P Jain i/by Res Legal for the
Respondents.

CORAM : R. M. SAVANT, J.
DATE : 21st September 2015

P.C.

1 The writ jurisdiction of this Court is invoked against the order dated 13/02/2015 passed by the learned Judge, City Civil Court, Greater Mumbai by which order the Chamber Summons No.1122 of 2014 filed by the Plaintiffs for arraying the Petitioners as party Defendants to the suit came to be allowed.

2 It is an undisputed position that the Petitioners are the last transferees in respect of the property which is the subject matter of the suit in question which has been filed by the Respondents for specific performance. The Trial Court has deemed it appropriate to allow the Chamber Summons filed by the Plaintiff on the ground that in the event the decree of specific performance is passed, it would be necessary to join the proposed Defendants

as parties to the suit, so that the decree is enforceable against them.

3 In my view having regard to the well settled principles applicable to the implementation of the subsequent transferee, the impugned order passed by the Trial Court allowing the Chamber Summons so as to implead the Petitioners as party Defendants to the suit in question cannot be taken exception to. No case for interference in the writ jurisdiction of this Court is made out. The above Writ Petition is accordingly dismissed. However, it is clarified that it would be open for the newly joined Defendants to take such defences as are available in law including the defence of limitation. The learned counsel appearing for the original Plaintiff i.e. the Respondent herein is agreeable to the added Defendants being granted 4 weeks time to file their written statement. In view of the said consent given by the learned counsel for the Respondent, the added Defendants i.e. the Petitioners herein would file their written statement within a period of 4 weeks from date. The Trial Court would accordingly take it on record.

[R.M.SAVANT, J]

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