

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

WRIT PETITION NO.7792 OF 2013

Atulkumar Rajkumar Agrawal : Petitioner
versus
Sanjay Ramchandra Shinde and ors. : Respondents.

Mr. Sandesh D Patil for the Petitioner.
Mr. Sanjiv A Sawant with Mr. Ketan Joshi for the Respondent No.7.
None for the Respondent No.1.

CORAM : R. M. SAVANT, J.
DATE : 28th January 2015

P.C.

1 The writ jurisdiction of this Court is invoked against the order dated 11/2/2013 passed by the learned 8th Joint Civil Judge, Senior Division, Thane by which order the Application (Exhibit 97) filed by the Petitioner for his impleadment in the suit in question being Special Civil Suit No.352 of 2005 came to be rejected.

2 The said suit has been filed by the Respondent No.1 herein i.e. the original Plaintiff for specific performance of a contract entered into between him and the Defendant Nos.1 to 5. In the said suit the Respondent No.8 herein, who claimed that some interest was created by the Plaintiff i.e. the Respondent No.1 herein in his favour, had filed an Application for impleadment, which Application (Exhibit 45) came to be allowed by the Trial Court by the order dated 5/9/2008 and the Respondent No.8 accordingly came

to be impleaded as Defendant No.7 in the said suit. The present Application (Exhibit 97) is founded on the fact that the Respondent No.8 i.e. the Defendant No.7 has entered into an Agreement with the Petitioner i.e. the Applicant for joint development of the property in question. The facts relating to the strained relations between the Defendant No.7 and the Petitioner herein have been mentioned in the Application (Exhibit 97).

3 The Trial Court considered the said Application (Exhibit 97) and having regard to the fact that the case of the Petitioner seeking his impleadment does not satisfy the tests which are to be applied for consideration of an application for impleadment under Order I Rule 10 of the Code of the Civil Procedure rejected the said Application. The Trial Court was of the view that the presence of the Petitioner i.e. the Applicant is not necessary for adjudication of the suit.

4 In my view, having regard to the facts as afore-stated, no case for interference in the writ jurisdiction of this Court is made out. The above Writ Petition is accordingly dismissed. However, it would be open for the Petitioner/Applicant to adopt independent proceedings for assertion of his rights if any and the dismissal of the present Petition would not come in his way from prosecuting such proceedings.

[R.M.SAVANT, J]