

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

WRIT PETITION NO.11143 OF 2015

Shri. Adam A. Sorathia

.. Petitioner

Versus

Yusufali Japanwala (since deceased)

Smt. Kamal Sultan Yusufali and others

.. Respondents

Mr. R. S. Tripathi, for the Petitioner.

Mr. Vipul Shukla i/by Mr. Jayesh Vyas, for the Respondent Nos.2 & 3.

CORAM : R.M. SAVANT, J.

DATE : 18th DECEMBER, 2015

PC.

1. The order dated 19.08.2015 passed by the Appellate Bench of the Small Causes Court, Mumbai, rejecting the application Exh.24 for amendment of the plaint to join the remaining two trustees as parties to the suit is taken exception to by way of the above Petition. The Appellate Bench has referred to the order passed by the Trial Court dismissing the suit on the ground of non-joinder of necessary parties against which the instant Appeal being Appeal No.2 of 2011 has been filed by the Plaintiffs. The Appellate Bench has also referred to the order dated 15.12.2011 passed by it, whereby a similar application filed by the Appellant was rejected. It is on the said basis that the instant application Exh.24 came to

be rejected by the Appellate Bench of the Small Causes Court. In my view, it is not necessary to interdict with the order passed by the Appellate Bench of the Small Causes Court. The Writ Petition is accordingly dismissed.

2. However, the Appellate Bench of the Small Causes Court, Mumbai, is directed to hear and decide the Appeal without being influenced by the impugned order.

[R.M. SAVANT, J]