

**IN THE HIGH COURT AT BOMBAY
APPELLATE SIDE, BENCH AT AURANGABAD**

909 WRIT PETITION NO. 9865 OF 2016

KAMAL KISHOR NANDKISHOR ASSOPA
VERSUS
M/S KAKA DEVELOPERS THROUGH ITS PARTNER NARENDRA D
AGRAWAL AND OTHERS

...
Advocate for Petitioners : Kedar Balbhim R.
Advocate for Respondents 2 to 4 : Amit S. Deshpande
...

CORAM : T.V. NALAWADE, J.
DATED : 7th December, 2016.

ORDER :

1. Notice. Learned counsel Shri. Deshpande waives notice for respondent Nos. 2 to 4.
2. The proceeding is filed to challenge the order made on Exh. 270 in Special Civil Suit No. 34/2012 pending in the Court of Civil Judge, Senior Division, Latur. Both the sides are heard.
3. The suit is filed by present respondent No. 1 for specific performance of agreement of sale made by the defendants of that suit. The present petitioner filed application and he contended that the property was given to the petitioner under will document and so, petitioner is necessary party to the

suit. When the suit is filed for relief of specific performance of contract, only parties to the contract need to be made parties to the suit and they are necessary parties. No other person, who may have interest in the property or who may have even title in the property can be called as necessary party only because he has interest or title in the property. It is up to the plaintiff to think over it. If plaintiff desires to take defective decree, it is open to the plaintiff. However, the person like present petitioner, claiming such right cannot intervene in the suit as a matter of right. This Court holds that the Trial Court has not committed any error in rejecting the application filed by the petitioner.

4. The learned counsel for petitioner placed reliance on the case reported as **2015 (1) Mh.L.J. 163 [Premanand Gajanan Naik and Ors. Vs. Sachit Gajanan Naik and Anr.]**. The observations made by this Court in the case cited supra are of no help to the petitioner in view of the position of law and provisions of Contract Act and Specific Relief Act. Even if such decree is given by the Trial Court, it will not be binding on the person, who is not party to such suit. The petition stands dismissed.

[T.V. NALAWADE, J.]

ssc/