

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

WRIT PETITION NO.3687 OF 2015

Mr. Manik Desarda & Ors.

..... Petitioners

Versus

M/s.Rashi Enterprises through its proprietorRespondents

....

Mr. Shriram Kulkarni for the Petitioners.

...

CORAM : N. M. Jamdar J.

Friday 26 AUGUST, 2016

P. C.

. The Petitioners challenge the order passed by the learned Civil Judge, Senior Division dated 9 April 2014 wherein the application taken out by the Petitioners for deletion of Defendant Nos.2 to 5 from the array of parties in the suit, was rejected.

2. The learned counsel for the Petitioners submitted that, by order dated 9 September 2014 an unconditional leave to defend was granted to the Defendants and therefore presence of directors in the suit is not necessary.

3. Having heard the learned counsel for the Petitioners, I am of the opinion that the issue as to whether the directors can be sued in their personal capacity and whether they need to be joined as Defendants in the suit since unconditional leave is granted, can be

kept open to be urged at the time of the hearing of the suit and the observations made by the learned Civil Judge in the impugned order will not come in the way of the Petitioners. If this course of action is adopted, no prejudice will be caused to the Petitioner, which is one of the touch stone on which the jurisdiction of this court can be invoked. It is not to be invoked to correct every error of the subordinate Court. Keeping this issue open, the writ petition is disposed of.

(N. M. Jamdar, J.)