

JPP

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

WRIT PETITION NO. 9561 OF 2016

Basheer Ameen Murtuza and Anr.

... Petitioners.

V/s.

Shreenivas Gangaram Dalvi and Ors.

... Respondents.

Mr. Manas Gawankar for the Petitioners.

None for the Respondents.

CORAM : N.M. Jamdar, J.

10 October, 2016.

Oral Order :-

Not on board. Taken on production board by way of praecipe.

2. The Petitioners challenge the order passed by the learned Civil Judge, Senior Division, Ratnagiri rejecting the application filed by the Petitioners for impleadment as a Defendant in the Suit. According to the Petitioners, the suit property is sold to them and the Respondents – Plaintiffs are seeking specific performance of an agreement from the Defendants and if decree is passed, the rights of

the Petitioners will be affected. The position of law is that a suit for specific performance cannot be converted to a suit on title, and if an impleadment is not granted, the decree passed will not be binding on the third party who is claiming an independent right. Even otherwise, such decree, if the Plaintiffs choose not to join the third party, it is always at the risk of the Plaintiffs.

3. In the circumstances, since the rights of the Petitioners are not affected and kept open, it is not necessary to interfere with the impugned order. Writ Petition is accordingly disposed off.

(N.M. Jamdar, J.)