

JSN

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
CHAMBER SUMMONS NO. 498 OF 2016
IN
SUIT NO. 825 OF 2015

Right Eye Real Estate LLP	... Applicant
<i>In the matter between</i>	
Mihir Gautam Raut and Another	... Plaintiffs
<i>Versus</i>	
Shalini Sumant Raut and others	... Defendants

Mr. Sagar Ambedkar, *for the Plaintiffs Nos. 1 and 2.*
Mr. Bhavin Gada, *with Mr. Vasim Shaikh i/b Pravin Mehta and*
Mithi and Co for the Applicant / Defendant No.22.
Mr. Yogeshwar S. Bhate, *for Defendant No.19.*

CORAM: G.S. PATEL, J
DATED: 7th December 2016

PC:-

1. This Chamber Summons is filed by a third party, one Right Eye Real Estate LLP (“**Right Eye**”), a partnership firm that claims to be a transferee from Defendants Nos. 1 and 2, amongst others. Right Eye is clearly a necessary party. The suit is for partition and declaration of ownership. A partition decree — even a preliminary decree — is bound to affect any rights that Right Eye may claim to have acquired. Moreover, if Right Eye is not joined, an effective decree or order may be frustrated. Moreover, if the Plaintiff needs to impeach the transaction and challenge the document by which Right

Eye acquired rights, it must be done in this suit rather than in a separate action, so as to avoid delay and multiplicity of proceedings. Mr. Gada for Right Eye is, I believe, completely correct in saying that since his client has acquired a share in the property, his client is equally entitled to demand partition or to oppose it. If the Plaintiffs do not acknowledge Right Eye's title, and yet Right Eye is not joined to this suit, then there is every possibility that the present suit would be delayed till that *lis* as to title is decided. It is, therefore, Mr. Gada says, and I think he is correct, that it is in the interest of all concerned that Right Eye be joined to this suit, and the Chamber Summons be allowed.

2. In my view, the Applicant is clearly both a necessary and a proper party. However, all rights and contentions of the parties of all sides, including the Plaintiff's contentions that the transaction by which the Applicant has acquired title are neither genuine nor *bona fide*, are specifically kept open. The Chamber Summons is made absolute in terms of prayer clause (a). The Applicant will be joined as Defendant No.22. I will also specifically reserve to the Plaintiff the liberty to move a Chamber Summons, if thought necessary, for impeaching any document of transfer or title in favour of newly added Defendant No.22. Mr. Bhate for Defendant No.19 has no objection to this order.

3. The Chamber Summons is disposed of in these terms with no order as to costs.

4. The Plaintiff will carry out the necessary amendment, without need of reverification by 19th December 2016. A copy of the amended Plaint will be filed and served on the Advocates for the Applicant on or before 23rd December 2016. The newly added Defendant No.22 waives service of the Writ of Summons. All Written Statements to be filed at the latest by 17th March 2017. Discovery and Inspection within two weeks thereafter. Suit to be listed for framing issues on 3rd April 2017.

(G. S. PATEL, J.)