nsc.

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION

APPEAL (L) NO.436 OF 2015
Arising from
CHAMBER SUMMONS (L) NO.6 OF 2015
IN
SUIT (L) NO.1184 OF 2014

Ravindra Dagadu Jadhav and Ors. ...Appellants

Versus

M/s.Singasane Engineering and Realty Ventures Limited and Ors. ...Respondents

Mr.Deepak Raut, for the Appellants

Mr.Shailesh Shah, Senior Counsel a/w Mr.Pravin Shewale, Mr.Abhishek Deshmukh, for the Respondent Nos.1 and 2.

Ms.Alisha Parekh i/b L.J.Law, for the Respondent No.6.

CORAM : V. M. KANADE &
REVATI MOHITE DERE, JJ.

DATE : 12th JANUARY, 2016

P.C. :

1. Learned Counsel appearing on behalf of the respondents (original plaintiffs) submitted that even if the original plaintiff succeeds,

then by virtue of decree of specific performance, the original owner - landlord would have to execute the agreement performing his part of the agreement and even if the plaintiff become the owner of the property the rights of occupants/tenants would not be affected.

2. On the other hand, learned counsel appearing on behalf of the appellants submitted that in the agreement which was executed between the plaintiffs and the original owners of the suit property i.e (defendant nos.1 and 2), the plaintiffs had agreed to give separate flats to the tenants and if the plaintiffs commit default or do not perform their part of the agreement, the rights of the interveners/appellants would be affected. It is submitted that therefore they are proper and necessary parties to the suit.

3. In our view the interveners have an independent right to file a suit against the original owners. Secondly, they have already filed a suit in the City Civil Court claiming to be the owners of the suit premises. Thirdly, it is quite well settled that a person who is not a party to the agreement is not a necessary party in a suit for specific performance of an agreement.

4. We have perused the order passed by the learned Single Judge. In our view, there is no infirmity in the order passed by the learned Single Judge and therefore we are not inclined to interfere with the said order.

5. Reserving the rights of the appellants/interveners to take out appropriate proceedings against defendant nos.1 and 2, who are the owners of the property and against the plaintiffs for acquiring their rights, the appeal is disposed of.

REVATI MOHITE DERE, J. ***V.M. KANADE, J.***