

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

**WRIT PETITION NO.2689 OF 2013**

Rajendra M. Developers & Builders  
Pvt. Ltd., Nashik & Anr.

.... Petitioners

V/s.

Jibhau Dadaji Sonawane & Ors.

.... Respondents

Mr. Girish Godbole, i/by Mr. Sumit S. Kothari, for the Petitioners.

Mr. Girish R. Agrawal for Respondent No.2.

**CORAM : DR. SHALINI PHANSALKAR-JOSHI, J.**

**DATE : 18<sup>TH</sup> DECEMBER 2017.**

**P.C. :**

1. Heard Mr. Godbole, learned counsel for the Petitioners, and Mr. Agrawal, learned counsel for Respondent No.2.

2. By this Petition, the Petitioner is challenging the order dated 31<sup>st</sup> December 2012 passed by the 5<sup>th</sup> Joint Civil Judge, Senior Division, Nashik, below Exhibit-62 in Special Civil Suit No.18 of 1995.

3. The application at Exhibit-62 was filed by the present Petitioners, under Order 1 Rule 10 of the Civil Procedure Code, for including them as parties to the Suit on the count that, Defendant Nos.2 and 3 are having undivided 2/3<sup>rd</sup> share in the suit property and Petitioner No.1 has agreed to purchase 1/2 share of Defendant Nos.2 and 3 vide Registered Agreement dated 25<sup>th</sup> October 1989.

4. The perusal of the impugned order passed by the Trial Court reveals that, the Suit is for specific performance of the contract and in such situation, the 'Subsequent Purchaser' cannot be, strictly speaking, the necessary party to the Suit, as without their presence, the Suit can be decided effectively. In view thereof, I do not find any reason to interfere in the impugned order passed by the Trial Court.

5. Even otherwise also, learned counsel for the Respondents brings it to the notice of this Court that the Suit is now fixed for Judgment on 2<sup>nd</sup> January 2018. Apart from that, the Petitioners have already filed a separate Suit for partition. In the light of both these facts also, no interference is warranted in the impugned order of the Trial Court.

6. Writ Petition, therefore, stands dismissed.

**[DR. SHALINI PHANSALKAR-JOSHI, J.]**