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

WRIT PETITION (ST.) NO. 5179 OF 2017

Samir Narain Bhojwani.

... Petitioner.

V/s.

M/s. Polestar Realtors Pvt. Ltd. & Ors.

... Respondents.

Mr. P.K. Dhakephalkar, Senior Advocate a/w. P.K. Shroff and D.V. Deokar i/b. M/s. Parimal Shroff & Co. for the Petitioner.

Mr. M.M. Vashi, Senior Advocate a/w. Ms. Aparna Deokar i/b. M/s. M.P. Vashi & Assoc. for Respondent 1.

Mr. Rajendra Pai a/w. A.R. Pai, Ms. N.N. Thakkar and Ms. Apurva Bhatt i/b. R.R. Sharma for Respondent No.2.

CORAM : N.M. Jamdar, J.

23 February, 2017.

Oral Order :-

Heard the learned Counsel for the parties. The Petitioner is aggrieved by the order passed by the learned Small Causes Court Judge dated 16 February 2017 rejecting the application filed by the Petitioner for intervention in the TE & R Suit No.177/192 of 2014 filed by Respondent No.1 against Respondent No.2. Copy of the reasoned impugned order is awaited.

2. The matter was moved on urgent basis by the Petitioner on the apprehension that the Respondent Nos.1 and 2 are likely to file consent terms in the suit lodged and the matter is kept on 27 February 2017 for passing order in terms of the decree. As on today, the Petitioner is not a party to the suit. The learned Counsel for the Petitioner submitted that the Petitioner could have been at least joined as a proper party to avoid further litigation and since the Petitioner is not a party, the consent decree, even if it is granted, will not be binding on the Petitioner.

3. The learned Counsel for the Respondents state that it is correct that if the consent decree/order granted in the suit, it will not be binding on the Petitioner, and that they are fully aware of the consequences, if any.

4. In view of this position, it is not necessary to interfere with the impugned order. The decree if granted will not be binding on the Petitioner. It is open to the Petitioner to pursue his rights and remedies as per law, which proceedings will be considered on their own merits.

5. Writ Petition is accordingly disposed of.

(N.M. Jamdar, J.)