

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

WRIT PETITION NO. 6650 OF 2016

Dimple Realtors Pvt. Ltd. ...Petitioner
Versus

Santosh Yashwant Bhandari & Ors. ...Respondents

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Mr.Vishal Kanade a/w Mr.A.R.Shaikh i/b. ASD Associates for the
Petitioner.

Ms.Kinjal A. Sakhida for Respondent No.21.

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**CORAM: Mrs.MRIDULA BHATKAR, J.
DATED: JUNE 27, 2017**

P.C. :

1. This matter was called out again. Mr.Keni, the learned counsel for respondent nos. 1 to 3 was absent.

2. Rule. Rule made returnable forthwith. By consent, petition is heard finally and disposed of at the stage of admission.

3. This petition is directed against the order dated 21.03.2016 passed by the learned Judge, City Civil Court, Dindoshi, Mumbai thereby rejecting Chamber Summons No. 551 of 2015 in Suit No. 651 of 2009 filed by the petitioner/ applicant to implead them as a party defendant to the Suit.

4. The learned counsel for the petitioner submits that plaintiffs/ respondent nos. 1 to 3 had filed the Suit for partition against defendant nos. 1 to 18. Defendant no. 18 had purchased the entire property from

defendant nos. 1 to 17 and defendant no. 18 sold the entire property to the present petitioner/ applicant. Plaintiffs /respondent nos. 1 to 3 asked for partition of their undivided shares in the entire suit property. He further submits that there was no lis pendence and therefore, Section 52 of the Transfer of Property Act, 1882 cannot be attracted for transfer of property. He further submits that the Suit is for partition and the present petitioner/applicant is to be in possession of the suit property by defendant no.18 and has created right through defendant no.18 and put in possession of the suit property.

5. Perused the order dated 21.03.2016 passed by the learned Judge, City Civil Court, Dindoshi, Mumbai. The Suit is for partition. It appears that co-sharers i.e. defendant nos. 1 to 17 have sold out the entire property to defendant no.18. Thereafter, defendant no. 18 has sold out the entire property to third party. Considering the submissions made by the learned counsel for the petitioner, the order dated 21.03.2016 passed by the learned Judge, City Civil Court, Mumbai is hereby set aside, as the petitioner/ applicant is a necessary party to the Suit. Hence, the petitioner/ applicant is to be impleaded as defendant no. 19 to the Suit.

6. In view of the above, Writ Petition is disposed of.

(MRIDULA BHATKAR, J.)