

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 10220 OF 2017

M/s. Om Sai Developers
& Others

.. Petitioners.

v/s.

M/s. B. J. Enterprises & Others

.. Respondents.

Mr. Rui Rodrigues with Ms. Bhavika S. Kuperkar and Regina i/b. Mr. A. V. Chatuphale, for the Petitioners.

Mr. Salik Khan, for Respondent No.1.

CORAM: M.S.SANKLECHA, J.

DATE : 13th SEPTEMBER, 2017.

P.C:-

Moved for urgent reliefs. Mr. Rodrigues, learned Counsel appearing for the Petitioners state that all the parties have been served. In spite of service, only Respondent No.1 (Original Plaintiffs) is represented.

2 This Petition challenges the order dated 14th July, 2017 passed by the Joint Civil Judge, Senior Division, Panvel. By the impugned order, the Petitioner's application under Order I Rule 10(2) of the Code of Civil Procedure, 1908 (Code) for being impleaded as party-defendant to the pending suit, came to be rejected.

3 It is contended on behalf of the Petitioner that the impugned order is contrary to and in defiance of the decision of the Apex Court in *Thomson Press (India) Ltd., v/s. Nanak Builders and Investors AIR 2013 SCC 2389* which directs that the purchaser of properties during the

pendency of the proceedings, are necessary and proper parties for a complete disposal of the adjudication proceedings. The Petitioner herein has purchased a suit property during the pendency of the proceedings.

4 Mr. Khan, learned Counsel appearing for the Respondent No.1- Original Plaintiff states that he alone had opposed the addition of the Petitioner to the suit as party. However, he now has no objection to the Petitioner being made a party-defendant to the suit, provided he does not further alienate of the suit property during the pendency of the suit.

5 Mr. Rodrigues, learned Counsel for the Petitioner on instructions of his client states that the Petitioner would not during the pendency of the suit alienate the suit property. Further, Petitioner states that he would maintain status-quo as of today with regard to the construction on the suit property till such time as Respondent No.1's pending application for interim injunction, is disposed of by the Trial Court.

6 The Trial Court is directed to dispose of the interim application for injunction taken out by the Plaintiff, preferably before the end of six weeks from today. Mr. Khan, on instructions, states that he would co-operate at the early disposal of the application for interim injunction taken out by him.

7 In the above view, the impugned order dated 14th July, 2017 is set aside. The Trial Court is directed to make the Petitioner as a party-defendant in the pending suit. The Respondent No.1 (Original Plaintiff) to carry out the necessary amendment within such time as determined by the Trial Court and serve copies of all the papers and proceedings to the

newly added Respondent within such time as Trial Court directs. Statement made by the Counsel, on instructions, of the parties, are accepted.

8 In the above view, at the request of the parties, the **Petition disposed of** in the above terms. No order as to costs.

Parties to act on a copy of this order duly authenticated by the Associate of this Court.

(M.S.SANKLECHA,J.)