

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

**CHAMBER SUMMONS NO. 1101 OF 2012
IN
SUIT NO. 408 OF 2003**

Mrs.Harvinder Kaur Rekhi & Ors. ...Applicants

In the matter between

Ramanlal Bhikaji Shah @ Mehta ...Plaintiff

vs.

Naresh Chintaman Athavale,
since deceased,

1a. Mrs.Priya Naresh Athavale & Anr. ...Defendants

Ms.Rajshree Phadke for Applicants (Third Party).

Ms.Akshita Salecha I/b.Kishore Thakordas & Co. for Plaintiff.

Mr.Mehul A. Shah for Defendant No.1(A).

CORAM : S.C. GUPTE, J.

23 JUNE 2017

P.C. :

Heard learned Counsel for the parties.

2 This chamber summons is taken out by third party Applicants for impeladment as party Defendants to the present suit. The Applicants claim to be all legal heirs of a tenant in respect of the suit property. The present suit is filed by an agreement purchaser of the suit property against the landlord of the Applicants.

3 It is the case of the Plaintiff that there is an agreement for sale of the suit property, which consists of a building known as "Athavale Bhuvan". This agreement is said to be contained in various writings

executed between the parties. The Plaintiff prays for specific performance of this agreement for sale. The Applicants claim to be legal heirs of one Brijender Singh Rekhi who was a tenant in respect of Room No.10A on the first floor of this building. Late Brijender Singh Rekhi expired on 30 April 2010. At the time of his death, he was carrying on his business of automobile motor spare parts in the name and style of M/s. Rekhi Motors. It is submitted that late Naresh Chintaman Athavale, who is the original Defendant of the present suit, the predecessor in title of the Defendants, sought a decree of eviction against Brijender Singh Rekhi's proprietary firm, M/s. Rekhi Motors. It is submitted that in this suit in the year 1998, late Athavale gave an undertaking to the court in writing that he would give shops to all previous tenants of Athavale Bhuvan after the reconstruction of the building. Based on this undertaking and right to receive alternative shop in the new building after its reconstruction, the Applicants have filed the present suit.

4 In a specific performance suit as between their landlord and his agreement purchaser, the Applicants have no cause to show and no role to play. They are not persons, who ought to have been joined whether as Plaintiff or Defendant or whose presence should be said to be necessary in order to enable the court to effectively and completely adjudicate upon and settle all the questions involved in the suit. In other words, the Applicants are neither necessary nor proper parties to such a suit.

5 In the premises, there is no merit in the chamber summons. The chamber summons is dismissed. No order as to costs.

6 It is clarified that the dismissal of this chamber summons will not come in the way of the Applicants' prosecuting their remedies against

either their landlord or the agreement purchaser of their landlord before a proper forum.

(S.C. Gupte, J.)