

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY**  
**ORDINARY ORIGINAL CIVIL JURISDICTION**  
**CHAMABER SUMMONS NO.1658 OF 2015**  
**IN**  
**SUIT NO. 736 OF 2013**  
**WITH**  
**NOTICE OF MOTION NO. 1466 OF 2013**

M/s Rushi Realty (India) Pvt. Ltd. .... Applicant/  
Third party

In the matter between

Nishit Rajendra Jhaveri .... Plaintiff

Vs.

Ghanshyam Raj Narayan Dube & Ors. .... Defendants

Mr. Avinash Joshi i/by Mr. K.K. Tiwari for the Plaintiff.

Mr. Rajiv Narula i/by Jhangiani Narula for the Applicant in CHS.

Coram : R.D. DHANUKA, J.

Date : 7th November, 2017

**P.C. :**

1 By this Chamber Summons, the applicant seeks to implead the applicant as defendant no.16 in the Suit as well as pending Notice of Motion No. 1466 of 2013.

2           The suit is filed interalia praying for dissolution of registered partnership firm- M/s Parag Constructions. Mr. Narula, learned counsel appearing for the applicant invited my attention to the prayers made in the plaint more particularly prayer (B) and also to the properties described in Exhibit L1 to L4. He submits that the plaintiffs have prayed for accounts of the said firm in respect of the properties properly described at Schedule I to IV at Exhibit L1 to L4 to the plaint and for other reliefs in respect of said properties.

3           Learned counsel invited my attention to various agreements entered into between the partners of the suit firm in respect of part of the suit property forming part of Exhibit L1 and L2. He submits that each of the co-owners in respect of those properties have entered into agreements with the applicants and thus if any order is passed by this court in terms of prayer clause (B) and other prayers in the plaint, his clients' interest would be seriously prejudiced. He submits that the applicant is thus

necessary or atleast a proper party to the suit. Learned counsel for the plaintiff on the other hand submits that the agreement entered into between the plaintiff and the applicants is already terminated. He submits that he is ready and willing to implead the applicants as party defendants to the Notice of Motion and not the suit. The submission of the learned counsel for the plaintiff that the agreement between the plaintiff and the applicant was terminated itself indicates that the agreement was entered into between the plaintiff and the applicants. The other defendants have not disputed the execution of the agreements,

4           A perusal of the prayer clause (B) read with Exhibit L1 and L2, which describes the properties which are subject matter of those agreements with the partners of the suit firm are subject matter of the suit. The plaintiffs are seeking reliefs in respect of those properties also. If any order is passed by this court in terms of those prayers, the applicants would be seriously affected. In my view the applicants would be thus proper party for the purpose of deciding the suit more effectively. I, therefore pass following order.

O R D E R

- (i) Chamber Summons No. 1658 of 2015 is made absolute in terms of prayer clause (A).
- (ii) Amendments to be carried out within a period of two weeks from today. Amended copy of the Notice of Motion and the plaint alongwith annexures thereof shall be served upon newly added parties within one week from the date of carrying out an amendment.
- (iii) No order as to costs.
- (iv) Affidavit-in-reply to the amended Notice of Motion shall be filed by the newly added parties within two weeks from the date of service of amended copy of the plaint as well as Notice of Motion.
- (v) It is made clear that no further extension would be granted.
- (vi) Rejoinder if any, shall be filed within one week from the date of service of affidavit-in-reply by the newly added defendants.

- (vii) Place the Notice of Motion on board for final disposal after six weeks.

**( R.D. DHANUKA, J.)**