

IN THE HIGH COURT OF BOMBAY AT GOA

WRIT PETITION NO. 1058 OF 2017

MANJULA MAHALINGAM AND 16 ORS., ... Petitioners

Versus

**P.K. HOSPITALITY SERVICES PVT.
LTD., AND ANR.,** ... Respondents

Shri S. Mangeshkar, Advocate for the petitioners.

Shri Vibhav Rajiv Amonkar, Advocate for the respondent no.1.

Shri Ashish Krishnanath Kuncolienkar, Advocate for the
respondent no.2.

Coram:- C. V. BHADANG, J.

Date:- 11th April 2018

P.C.

The challenge in this petition is to the order dated 29/09/2017, passed by the Trial Court, refusing to implead the petitioners as party defendants in a suit for specific performance, filed by the first respondent against the second respondent. On behalf of the petitioners, reliance was placed before the trial Court on the decision of the Supreme Court in the case of NATIONAL TEXTILE WORKERS UNION VS. P. R. RAMAKRISHNA; 1983(1)SCC 228, in order to submit that the rights of the petitioners, who are the employees of the first respondent, would be affected by the outcome in the suit. It is submitted that in a similar situation, the Supreme court had

allowed the intervention.

2. The learned Trial Court has distinguished the judgment in the case of NATIONAL TEXTILE WORKERS UNION (Supra), on the ground that in that case, there was a dispute between the Management and the impleadment was sought in a winding up petition.

3. On hearing the learned Counsel for the parties, I do not find that any case for interference is made out.

4. The learned Counsel for the petitioner, in all fairness, did not dispute that the petitioners are not necessary parties to the suit in as much as there is no relief or right claimed as against the petitioners in the suit and the Court would be in a position to decide the suit in the absence of the petitioners. Thus, the only question is whether the petitioners are proper parties. Order I, Rule 10(2) of Civil Procedure Code (CPC), inter alia, provides that the Court may direct addition of a party where it is necessary to enable the Court effectually and completely to adjudicate upon and settle all the questions involved in the suit. It cannot be accepted that merely because the rights of the petitioners would be affected by the outcome of the suit, their presence is necessary to enable the Court effectually and completely to adjudicate upon and settle all the questions involved in the suit. Reliance placed

on the decision in NATIONAL TEXTILE WORKERS UNION (supra) is also misplaced. The Supreme Court, in a later decision in the case of RAMESH HIRANAND KUNDANMAL VS. MUNICIPAL CORPORATION OF GREATER BOMBAY; 1992(2)SCC 524, has held that the principles as settled in the case of NATIONAL TEXTILE WORKERS UNION (supra) have no application in a civil litigation. The only question in the suit is whether the respondent no.1 is entitled to a decree of specific performance. Normally, in a suit for specific performance, a third party to the contract, cannot seek impleadment.

5. I have carefully gone through the impugned order and I do not find that it suffers from any infirmity, so as to require interference. The Writ Petition is without any merit and is, accordingly, dismissed, with no order as to costs.

C. V. BHADANG, J.

SMA