

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

**WRIT PETITION NO. 12197 OF 2016
WITH
CIVIL APPLICATION NO. 540 OF 2018**

Naushad P. Panjwani	...	Petitioner
V/s.		
Panju Sons & Ors.	...	Respondents

- Mr.Atul Damate, Sr. Counsel a/w. Mr.Manoj Nikose for the Petitioner.
- Mr.M.U. Pandey a/w. Mr.Rakesh M. pandey for Respondent Nos.2(A) to 2(C).

CORAM : DR.SHALINI PHANSALKAR-JOSHI, J.

DATE : 6th MARCH, 2018.

P.C. :

- 1] Heard learned counsel for both the parties.
- 2] By this Writ Petition filed under Article 227 of the Constitution of India, the Petitioner is challenging the order dated 15th June 2016 passed by the Ad-hoc District Judge, City Civil Court, Mumbai, thereby rejecting the Chamber Summons No.1029 of 2015 in S.C. Suit No.8737 of 1992.
- 3] The said Chamber Summons was taken out by the present

Petitioner for his impleadment and impleadment of the other partners of the firm in the suit contending *inter-alia* that, when partnership of firm has been constituted, he was minor, his uncles were conducting the business and the administration of the partnership firm. He became major on 27th April 1996. He has served the notice of dissolution of the partnership firm on 30th April 2002 and filed Arbitration Petition No.184 of 2002. As a result, his relations with remaining partners became strained. He had no knowledge about the suit. Only in the last week of February 2015, the Lawyer representing the partnership firm informed him about the pendency of the suit and therefore, he has applied for his impleadment in the suit.

4] Another contention raised is that his mother has relinquished her share in the bungalow known as "Panju House". Against that relinquishment, the flat bearing No.204, which is the subject matter of the present suit, is allotted to her as per the family arrangement dated 23rd November 1979. Then by executing the Will dated 7th December 2001 his mother has bequeathed the said flat in his favour. Since then he is in possession of the suit flat. Therefore, he is necessary party to the present suit.

5] The perusal of the impugned order passed by the trial Court, however, clearly goes to show that the trial Court has

considered all these aspects and events. The material and relevant averments which are made in the Chamber Summons also go to show that the Petitioner has become major way back in the year 1996. The notice for dissolution of the firm was given on 30th April 2002 and the firm stood dissolved since then. But for all along these years, the Petitioner has never bothered to know about pending suit, even after he become major in the year 1996. Even as regards the Will of his mother, it is pertinent to note that the said Will is executed in the year 2001, whereas the alleged family arrangement has taken place on 23rd November 1979 and after so many years at the fag end of the trial, when the suit is fixed for final arguments, then this Chamber Summons for impleadment is taken out. The trial Court was hence very well justified in rejecting the said Chamber Summons.

6] It is also pertinent to note that the other partners of the partnership firm have contested the suit and led their own evidence. In such situation, the impleadment of the Petitioner as party is absolutely not essential; especially having regard to the fact that the Respondent is claiming specific performance of the agreement of the suit flat on the basis of the agreement dated 10th March 1997, which was executed by the partnership firm. Therefore, even from this aspect also, now by seeking impleadment, the Petitioner and the other

partners want to convert the present suit as dispute *inter-se* between them, which is absolutely not warranted. If the Petitioner is interested in pursuing this suit, being the partner of the said firm, he was entitled to do so and even now he can do so, but there is no necessity of his impleadment in the suit. The trial Court has thus rightly rejected the Chamber Summons. No interference is warranted in the subject order. The Writ Petition therefore stands dismissed.

7] In view of the dismissal of the Writ Petition, Civil Application No. 540 of 2018, no more survives; hence stands disposed of.

[DR.SHALINI PHANSALKAR-JOSHI, J.]