

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

CIVIL REVISION APPLICATION No.657 OF 2015

Yuvraj B. Bhirud & Ors.

... Applicants

Vs.

Rieco Industries Ltd.

... Respondent

Mr.Rupesh Lanjekar for the Applicants

Ms.Shradha Achliya with Shriram Nimbalkar i/b Juris Corp. for the Respondent

**CORAM: Mrs.MRIDULA BHATKAR, J.
DATED: AUGUST 2, 2018**

P.C. :

1. Upon urgent mentioning, taken on Production Board.
2. This Civil Revision Application is directed against the order dated 15.3.2013 passed by the learned 5th Additional Judge, Small Causes Court, Pune, below exhibit 29 in Special Civil Suit No.1403 of 2010. Exhibit 29 is an application moved by the present Applicants, who are the defendants, for framing of additional issues. The plaintiffs have filed the suit for money recovery. The issues are framed on 20.6.2018 by the trial Court. The learned Counsel has pointed out that one D.V. Pol is authorised to file suit

and take necessary action against one Nectar India Private Limited for recovery of amount of Rs.25 lakhs. However, in the cause title, the name of Nectar India Private Limited is not mentioned but the names of the Applicants i.e., Yuvraj Bhirud, Shashank Athalye and Suhas Kadam are mentioned. Hence, the learned Counsel for the applicants submits that as the name of Nectar India Pvt. Ltd. Is not mentioned in the array of defendants, the suit is not maintainable for misjoinder and issue to that effect is to be framed.

3. The learned Counsel for the respondent while supporting the order passed by the trial Court has relied on the prayers in the plaint that these three persons have formed a company by name Nectar India Pvt. Ltd. and have violated the secrecy agreement.

4. After considering the papers before the Court, it appears that only one resolution is placed before the Court by which the plaintiff's representative is allowed to prosecute the company, namely Nectar India Pvt. Ltd. The company is not made party to the suit but only the Directors are made party to the suit. There is no specific resolution in the name of the Directors. In view of this, this is a subject of proof as the authorities are at issue on the point

of non-joinder and misjoinder. Therefore, additional issue is framed as follows:

“Whether the suit is bad for misjoinder or non-joinder of the parties?”

5. Civil Revision Application is disposed of accordingly.

(MRIDULA BHATKAR, J.)

Vishwanath
Satyanarayana
Sherla

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Vishwanath
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