

Shailaja

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE SIDE JURISDICTION
WRIT PETITION NO.9539 OF 2016
WITH
WRIT PETITION NO.8967 OF 2016
WITH
WRIT PETITION NO.10427 OF 2016**

JMC ENTERPRISES LLP	]	Petitioner
Vs.		
Prakash Mithubhai Damani & Ors.	]	Respondents
.....		
Mr. S. Shamim, for petitioner.		
.....		

CORAM : R.G. KETKAR, J.

DATE : 13TH JUNE, 2018.

P.C.

Heard Mr. Shamim, learned Counsel for the petitioners at length.

2. These Petitions are directed against the orders dated 11th March, 2016 passed by the learned Judge, Court Room No.20 of the Court of Small Causes at Mumbai in applications taken out by the petitioner, hereinafter referred to as 'applicant' for joining it as a 'plaintiff' in the suits. The applicant contended that as the plaintiffs No.5 to 7 have transferred their right, title and interest in the suit property in favour of it.

3. In support of these Petitions, Mr. Shamim strenuously contended that the applicant has acquired un-divided right, title and interest of plaintiffs No.5 to 7 in the suit property and has thus entered into the shoes of plaintiffs No.5 to 7. He further contended that the applicant has instituted suit on the

original side of this Court bearing No.1992 of 1994. This Court has issued injunction restraining the plaintiffs from creating third party interest. Injunction is operating and suit is still pending. He submitted that the applicant has stepped into shoes of plaintiffs No.5 to 7. The applicant deserves to be impleaded as party plaintiff in the suits.

4. I have considered the submissions advanced by Mr. Shamim. I have also perused the material on record. It is no doubt true and it is evident from record that applicant JMC Enterprises LLP has acquired undivided share of plaintiffs No. 5 to 7. Plaintiffs No.5 to 7 have assigned their right, title and interest in favour of the applicant. By the present applications, the applicant has prayed for its impleadment as plaintiff in the pending suits. The learned trial Judge has observed that the plaintiffs No.1 to 4 and 8 to 12 have opposed application by filing their reply. It is in that context, the learned trial Judge has observed that if the applicant is added as party plaintiff, it will be having two sets of plaintiffs in the same suit which is not permissible in law. It is settled law that all the persons having similar claim can come together. For the reasons recorded in paragraphs 5 and 6 of the impugned order, I do not find that the learned trial Judge has committed any error in passing the impugned order. Hence, Petitions fail and the same are dismissed.

5. Mr. Shamim submits that in case the Court is not inclined to interfere with the impugned order, liberty may be granted to the applicant to take out appropriate application for its impleadment as defendant in the suit. Liberty is granted subject to keeping all contentions of the other side open. Order accordingly.

[R.G. KETKAR, J.]