

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

CIVIL REVISION APPLICATION NO.558 OF 2016

Rishikesh Builders & Developers, Solapur	 Applicant
V/s.	
Raju @ Rajiv Mahadevsa & Ors.	 Respondents

Mr. Parag Moreshwar Tilak for the Applicant.

None for the Respondents.

CORAM : DR. SHALINI PHANSALKAR-JOSHI, J.

DATE : 2ND APRIL 2018.

P.C. :

1. Heard Mr. Tilak, learned counsel for the Applicant.
2. By this Revision Application, filed under Section 115 of the Code of Civil Procedure, 1908, the Applicant is challenging the order dated 7th June 2016 passed by the 2nd Joint Civil Judge, Senior Division, Solapur, below the application at “Exhibit-73” in Special Civil Suit No.57 of 2013.
3. The application at “Exhibit-73” was filed by Respondent No.1, who is the third party Applicant and the Partner of the present Applicant-Firm, namely, Rishikesh Builders and Developers. Respondent No.2 is

the Original Plaintiff and Respondent Nos.3 and 4 are Original Defendant Nos.1 and 2. The present Applicant was joined in the Suit subsequently.

4. According to Respondent No.1, he has issued notice for dissolution of the 'Partnership Firm' and as a result, since 9th April 2015, the Partnership Firm is not in existence. He has also filed a Suit, bearing Regular Civil Suit No.503 of 2015, for the 'Accounts' of the dissolved 'Partnership Firm' and hence, according to Respondent No.1, he is a necessary party to the said Suit.

5. The present Applicant has strongly resisted impleadment of Respondent No.1 on the count that, the Applicant is sufficiently taking care of the interest of the 'Partnership Firm'. Further it is submitted that, Respondent No.1 has, in the Suit bearing Regular Civil Suit No.503 of 2015, filed an application for temporary injunction at "Exhibit-5", restraining the present Applicant from carrying out the business of the 'Partnership Firm'. The said application came to be rejected by the Trial Court on 24th August 2015. Against the said order, an Appeal was preferred, but it was withdrawn.

6. As per the said order, it was held that, the notice given by Respondent No.1 for dissolving the 'Partnership Firm' is not legal and correct. In view thereof, it was urged that, as on today, the 'Partnership

Firm' is in existence and the present Applicant is taking care of the interest of the 'Partnership Firm'. Therefore, the application filed by Respondent No.1 for his impleadment should not be allowed.

7. As regards Respondent No.2-the Original Plaintiff, he has given no objection for impleadment of Respondent No.1.

8. The Trial Court has, while allowing the application filed by Respondent No.1, considered that, admittedly, Respondent No.1 was a Partner of the present Applicant-Partnership Firm. The Trial Court has also considered the fact that, in view of the notice given by Respondent No.1 for dissolution of the 'Partnership Firm', the relations between the parties are not on good terms and, therefore, Respondent No.1, being the Partner of the Applicant-Partnership Firm and having direct and substantial interest in the present Suit, is required to be impleaded therein for complete and final adjudication of the Suit.

9. In my considered opinion, having regard to the fact that Respondent No.1 is a Partner of the Applicant-Partnership Firm, which fact is not disputed, and if he is having an apprehension that his interest may not be protected properly, considering that he had already issued the notice for dissolution of the 'Partnership Firm', the Trial Court has rightly thought it fit to implead him to protect his interest and also for

complete and final adjudication of the dispute involved in the Suit. It cannot be said that the Trial Court has committed any illegality or impropriety in passing such order, so that this Court should interfere in the said order in its revisional jurisdiction. There is no jurisdictional error in the impugned order passed by the Trial Court.

10. The Revision Application, therefore, stands dismissed.

[DR. SHALINI PHANSALKAR-JOSHI, J.]