

IN THE HIGH COURT OF JUDICATURE AT BOMBAY***CIVIL APPELLATE JURISDICTION*****WRIT PETITION NO. 1131 OF 2017****Umashankar Rampyare Singh & Anr. Petitioners****VERSUS****M/s.Ornate Infra Holding (P) Ltd. & Ors. Respondents**

Mr.U.R.Singh, a/w. Mr.C.M.Lokeshappa for the Petitioners.

Mr.Sanjeev Singh for the Respondent no.1.

Mr.Amogh Singh, i/b. Mr.Jeet Gandhi for the Respondent no.2.

CORAM : R.D. DHANUKA, J.**DATE : 17th SEPTEMBER, 2018****P.C.**

By this petition filed under Article 227 of the Constitution of India, the petitioners have impugned the order dated 4th October,2016 passed by the learned trial judge allowing the impleadment application filed by the respondent no.2 below Ex.37 in a suit for the specific performance.

2. During the course of the hearing of the Ex.5 before the learned trial judge, the respondent no.1 has made a statement that the respondent no.1 had already created third party rights in respect of the suit property in favour of the respondent no.2. The respondent no.2 accordingly applied for impleadment by filing an application under Order 1 Rule 10 of the Code of Civil Procedure, 1908. The said application has been allowed by the learned trial judge.

3. Learned counsel for the petitioner invited my attention to the prayers in the suit filed by his client *inter alia* praying for specific performance of the agreement dated 29th December, 2013 in respect of the suit shop.

4. Supreme Court in case of ***Thomson Press (India) Limited vs. Nanak Builders and Investors Private Limited and others***, AIR 2013 SC 2389 has considered the issue whether a third party can be impleaded in the suit for specific performance or not. After considering several judgments of the Apex Court, the Apex Court in the said judgment has held that the third party was entitled to be added as a party defendant to the suit. The principles laid down by the Supreme Court in case of ***Thomson Press (India) Limited*** (supra) applies to the facts of this case. I am respectfully bound by the said judgment.

5. The learned trial judge in the impugned order has considered this aspect in great detail and has held that the presence of the respondent no.2 would be necessary for the purpose of deciding the suit effectively and completely.

6. I do not find any infirmity in the impugned order passed by the learned trial judge.

7. The writ petition is totally devoid of merit and is accordingly dismissed. There shall be no order as to costs.

8. The amendment to the plaint shall be carried out by the plaintiffs within two weeks from today. Amended copy of the plaint shall be served upon both the respondents within one week from the date of carrying out amendment.

[R.D. DHANUKA, J.]