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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
CHAMBER SUMMONS NO. 1431 OF 2015
IN
SUIT NO. 2694 OF 2010

The Cosmos Coop Bank Ltd	...Plaintiff
<i>Versus</i>	
Fortune Enterprises & Anr	...Defendants

Mrs Varsha Palav, *for the Applicant.*
Mr Sean Wassoodew, *for Defendant No. 1.*
Mr Denzil D'Mello, *for Defendant No. 2.*
Mr Jaydeep Mitra, *with Sidharth R Ingule, i/b Vijaya Ingule, for proposed Defendant No. 3.*

CORAM: G.S. PATEL, J
DATED: 17th January 2018

PC:-

1. In an extraordinary Chamber Summons, all are agreed that it should be dismissed and that the Respondent, the proposed Defendant, is neither a necessary nor a proper party.

2. In fairness, Ms Palav states that she filed the Chamber Summons only because at an earlier date in a Notice of Motion it was argued on behalf of one the Defendants — typically: where everything conceivable is argued — that relief should not be granted

without joining the Richmond Heights CHS. Ms Palav is absolutely correct in saying that in this Suit for specific performance against Defendant No.1, there is no privity at all with the Richmond Heights CHS. The Plaintiff's transactions are with the Defendant No. 1 and it is the case in defence that because of certain restrictions placed by the lessor, the 2nd Defendant, the Plaintiff-Bank is not entitled to the property that is the subject matter of the agreement. Ms Palav therefore says the Respondent, the Richmond Heights CHSL is not a necessary or a proper party.

3. Mr Wassoodew for Defendant No.1 agrees with Ms. Palav.
4. Mr D'Mello for Defendant No.2 agrees with Mr Wassoodew and Ms Palav.
5. Mr Mitra for the Respondent agrees with Mr D'Mello, Mr Wassoodew and Ms Palav.
6. And I agree with them all.
7. The Chamber Summons is dismissed. No costs.

(G. S. PATEL, J)