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

WRIT PETITION NO. 2233 OF 2018

Rajeshkumar Navpatlal Sakla

..Petitioner

vs.

Layla Parshuram Patwardhan

(since deceased) through Legal heirs

a) Pranav Parshuram Patwardhan & ors.

..Respondents

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Shri R.B. Jagtap a/w. Yogesh G. Thorat for petitioner.

Shri P.S. Dani, Senior Advocate I/b. Shri N.V. Khaladkar for
respondent No.3.

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CORAM : M.S.KARNIK, J.

DATE : 26th AUGUST, 2019

P.C. :

Heard learned counsel for the petitioner.

2. The petitioner is the original plaintiff instituted a suit before the trial Court for specific performance. The plaintiff prayed that defendant No.1 execute a sale deed in his favour.

3. By a notice of termination dated 24/11/1996 defendant No.1 had cancelled the sole selling rights in respect of

the suit property in favour of the plaintiff. This forms the basis for filing this suit.

4. The respondent No.3 (hereinafter referred to as “the intervener”) filed an application for impleadment in the suit as a party defendant claiming that defendant No.1 executed deed of conveyance in their favour and therefore they are necessary/proper party. Learned counsel for the petitioner assailing the order of the trial Court urged that the intervener was all along aware of pending of the suit between the plaintiff and defendant No.1 which was filed in the year 2006. According to him, having awaited all these orders it is only after the evidence of the plaintiff was recorded that the application for impleading the intervener as a party defendant came to be made on the plea that the intervener has acquired rights under the registered deed of conveyance dated 19/5/2016.

5. Learned counsel for the petitioner would submit that the intervener was all along aware of the pending suit. Learned counsel would further submit that it is based on the plea of the

plaintiff that the suit has to be decided. He would submit that the intervener is not at all a necessary or proper party to the proceeding. According to him, the application made by the intervener is belated.

6. I have gone through the application made by the intervener. The intervener claims on the basis of the development agreement executed by defendant No.1 in the year 2006 and further claims to have acquired rights under the registered deed of conveyance executed by defendant No.1 on 19/5/2016. By virtue of said deed the intervener had acquired joint ownership in respect of the suit property along with M/s. Gurukrupa Developers in the ratio of 75.25% i.e. the intervener is having $\frac{3}{4}$ th undivided share and M/s. Gurukrupa Developers are having $\frac{1}{4}$ th undivided share. Defendant No.1 has further confirmed that the intervener – third party has been put in actual possession of the suit property pursuant to the deed of conveyance.

7. No doubt learned counsel for the petitioner would submit that though the intervener was all along aware of the pending suit, but in paragraph 15 of the application it is stated that the intervener learnt about institution of the suit only after execution of the sale deed in its favour. It however cannot be overlooked that the intervener is claiming on the basis of the registered conveyance deed dated 19/5/2016. The defendant No.1 has stated that the possession of the suit property has also been handed over to the intervener.

8. The trial Court allowed the impleadment of the intervener. I have also gone through the order passed by the trial Court. I see no reason to interfere with the order passed by the trial Court impleading the intervener as a necessary/proper party to the suit. The Petition is rejected with no order as to costs.

(M.S.KARNIK, J.)