

SAS

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.3459 OF 2018

Nathuram Baban Shewale & Ors.

..Petitioners.

V/s.

Namdev Damu Badhe & Ors.

..Respondents.

Mr.Venkatesh A.Shastry for the petitioners.

None for the respondents.

CORAM : M.S.SONAK, J.

DATE : APRIL 1, 2019

P.C.:-

Heard Mr.Shastry, learned counsel for the petitioners

2. Challenge in this petition is to the order dated November 7, 2017 by which the petitioners have been ordered to be impleaded as defendants in Special Civil Suit No.1736/2008.

3. Mr.Shastry, learned counsel for the petitioners submits that in a suit for specific performance, the vendor and the purchaser are necessary parties. He submits that the petitioners, though claiming title through the vendor is not at all a necessary party.

4. Mr.Shastry further submits that in the present case the boundaries or the description of the suit property is vague. He submits

that the portion of the property purchased by the petitioners does not form part of the suit property as described in the plaint. He submits that this is an additional reason as to why the petitioners could not have been impleaded as a party to the suit.

5. Having considered the aforesaid contentions, according to me, no case is made out to interfere with the impugned order. Admittedly, the petitioners claim through the vendor. The record shows that the purchase by the petitioners were during the pendency of the suit. The entire issue as to whether the property has been described correctly or not and the issue as to whether the petitioners have purchased some part of the suit property or not, are all matters which will be decided at the time of the trial. There is no jurisdictional error in the impugned order and clearly there is no case made out to interfere in the matter.

6. The petition is, therefore, dismissed. There shall be no order as to costs.

7. However, it is clarified that the petitioners will be entitled to raise all legitimate contentions in the suit on merits.

(M.S.SONAK, J.)