

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

CIVIL APPLICATION No. 1423 OF 2018
IN
FIRST APPEAL No. 1681 OF 2013

Abhijit Ramnath Gunjal ...Applicant

In the matter between

M/s. Shree Associates and Ors. ...Appellants

Vs.

M/s. Technofour and Ors. ...Respondents

Mr. Ajay A. Joshi for Applicant

Mr. S.S. Kanetkar for Respondent No.1

Mr. Aneesh R. Deshpande i/b. Mr. R.S. Deshpande for Respondent No.6

CORAM: K.K. TATED, J.

DATED : JUNE 19, 2019

P.C. :

1. Heard learned counsel for the parties.
2. By this civil application, the Applicant is seeking permission to carry out appropriate amendment in the cause title of the First Appeal No. 1681 of 2013 and for joining by joining him partner of Appellant No.1 Firm.
3. Learned counsel for the Applicant submits that Respondents/ Original Plaintiffs filed Special Civil Suit No. 1166 of 2004 against the registered partnership firm M/s. Shree Associates and two partners i.e. Defendant Nos.8, 8A-8B. He submits that during the pendency of the present First Appeal, some of the partners expired and some of the

partners retired. Therefore, as per the terms and conditions of the partnership deed, the Applicant has filed present civil application for joining him as Appellant in the First Appeal No. 1681 of 2013. He submits that in other connected first appeals, the Applicant's application was allowed.

4. On the other hand learned counsel Mr. S.S. Kanetkar appearing for the Original Plaintiffs vehemently opposed the present civil application. He submits that the Applicant has not placed on record the copy of the partnership deed and, therefore, no question of entertaining the present civil application and hence, the same is required to be dismissed with costs.

5. It is to be noted that Respondents- Original Plaintiffs have not filed any reply to the present civil application. Though they were served more than one year back.

6. Considering the submissions made by the Advocate for Applicant and the reasons disclosed in paragraphs 3 and 4 of the civil application, I am satisfied that the Applicant has made out a case for allowing this civil application.

7. Hence, following order:

(a) Civil Application is allowed in terms of prayer clause (a), which reads thus:

“A] This Hon. Court may please to allow the application and allow the applicant to join as partner of Appellant Firm and carried out necessary amendment in cause title of the above appeal.”

(b) Applicant to carry out amendment in First Appeal No. 1681 of

2013 on or before 12th July, 2019, failing which civil application shall stand dismissed without referring back to the Court.

(c) If amendment is carried out within stipulated time, the Applicant to serve the amended copy of First Appeal on other side immediately thereafter and file affidavit of service to that effect.

(d) Civil Application stands disposed of accordingly.

(e) No order as to costs.

(K. K. TATED, J.)