

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.3640 OF 2019
WITH
WRIT PETITION NO.3621 OF 2019
WITH
WRIT PETITION NO.3622 OF 2019
WITH
WRIT PETITION NO.3623 OF 2019
WITH
WRIT PETITION NO.3624 OF 2019
WITH
WRIT PETITION NO.3625 OF 2019
WITH
WRIT PETITION NO.3639 OF 2019
WITH
WRIT PETITION NO.3641 OF 2019

M/s. Rajdeep Associates

...Petitioner

vs.

Surendra P. Bharaskaar and Ors.

...Respondents

Mr. P.J. Thorat I/b. Bipin J. Joshi, for the Petitioner

Mr. S.K. Dubey, for Respondent No. 1.

Mr. R.D. Mishra, for Respondent Nos. 2 to 9.

CORAM : R. G. KETKAR, J.

DATE : JULY 24, 2019

P.C.:

. Heard Mr. Thorat, learned counsel for the Petitioner, Mr. S.K. Dubey, learned counsel for Respondent No. 1 and Mr. Mishra, learned counsel for Respondent Nos. 2 to 9 at length.

2. These Petitions take exception to the orders dated 25th October, 2018 passed by the learned trial Judge in applications filed by Respondent Nos. 2 to 9 under Order I Rule 10 of C.P.C for their impleadment as Defendant Nos. 2 to 9.

3. Rule. Learned counsel for the Respondents waive service. Having regard to the narrow controversy in these Petitions and at the request of the parties, rule is made returnable forthwith and the Petitions are taken up for final hearing.

3. A perusal of the paragraph No. 3 of the impugned order shows that the learned trial Judge has observed that *“when the applicants have stated on affidavit that they are the legal heirs and representatives and they have right, title and interest in the suit property obviously, without their presence, the question involved in the suit cannot be completely decided.”*

4. Mr. Thorat has taken me to the application made by Respondent Nos. 2 to 9 for their impleadment as Defendant Nos. 2 to 9 and submitted that the said application does not disclose as to how the Respondent Nos. 2 to 9 are claiming to be heirs and legal

representatives of Jaitunbi Vazir. The applications do not disclose the relationship between Jaitunbi Vazir & Respondent Nos. 2 to 9.

5. Mr. Mishra on instruction seeks permission to withdraw the applications made by Respondent Nos. 2 to 9 with liberty to file fresh applications giving details as to how the Defendant Nos. 2 to 9 are related to Jaitunbi Vazir and how they are claiming to be heirs and legal representatives of Jaitunbi Vazir.

6. In view thereof, the applications filed by Respondent Nos. 2 to 9 for their impleadment as Defendants, are allowed to be withdrawn with liberty to Respondent Nos. 2 to 9 to file fresh applications in the pending suit. If such applications are filed, all the contentions of the Petitioner are expressly kept open and the learned trial Judge to decide the applications in accordance with law and on its own merits. The impugned orders are set aside. Rule is made absolute in the above terms with no order as to costs.

(R.G. KETKAR, J.)