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IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.2195 OF 2018

Prashant Ramnath Golccha ..Petitioner.
V/s.
M/s. Bhavanji Khimji & Co. & Ors. ..Respondents.

Mr.Chaitanya B.Nikte with Ms.Sneha Bhange for the petitioner.

Mr.Naveen Joshi i/b. M/s.Naveen Joshi Legal for respondent Nos.1 & 2.

CORAM : N.J. JAMADAR, J.

DATE : SEPTEMBER 26, 2019

P.C. :-

Heard learned counsel for the parties.

2. This petition under 227 of the Constitution of India, assails the order dated January 18, 2017 passed by the learned District Judge, Pune in Civil Appeal No.363/2016, in an application preferred by the petitioner-appellant under Order 1 Rule 10 of the Code of Civil Procedure (‘the Code’) for impleading the alleged subsequent purchasers as party respondents, in the appeal.

3. By a one line impugned order, the learned District Judge was inclined to reject the application, observing that the

proposed parties are bound by decree impugned under section 58 of the Transfer of Property Act (‘the T.P. Act’).

4. The petitioner-plaintiff had instituted a suit, being Special Civil Suit No.490/2009 for specific performance of contract to sell the office premises bearing Nos.64, 65, 66 and 67 in ‘C’ Wing of ‘B’ building in a complex known as Shrinath Plaza. The trial Court partly allowed the suit and ordered defendant Nos.1 and 2 to jointly and severally pay Rs.10,82,500/- with interest at the rate of 15% p.a. from the date of suit till realisation of the amount, by judgment and order dated June 25, 2015. Being aggrieved, the petitioner-plaintiff as well as defendants preferred appeals. In Civil Appeal No.363/2016, preferred by the petitioner-plaintiff, the appellant preferred an application to implead the alleged subsequent purchasers, namely, Sadhana Ajay Kothari and Pratik Ajay Kothari, as party respondent Nos.4 and 5, asserting that the plaintiff came to know that, after the decision of the suit, the respondents have conveyed the suit shops Nos.64 to 67 in favour of the proposed respondents. The learned District Judge was inclined to reject the application by observing that the impugned decree would bind the proposed parties as well.

5. Brevity in judgments and orders is indeed a virtue.

However, pursuit of brevity cannot be constricted to such an extent that the decision lacks reasons. It is trite that reasons are the soul of judicial disposition. The impugned order singularly lacks reasons. The sole reason is also untenable as it defies comprehension as to how section 58 of the Transfer of Property Act would have any application to the question in controversy.

6. Learned counsel for the respondents tried his persuasive best to impress upon the Court to construe the reference to section 58 of the Transfer of Property Act to a reference to section 52, which incorporates the principle of *lis pendence*. However, I am not persuaded to accede to the submission on behalf of the respondents. The learned District Judge ought to have considered the the necessity of impleadment of the subsequent purchasers as party respondents and assigned reasons in support of the conclusion.

7. In this view of the matter, it is necessary to quash and set aside the impugned order and remit the matter to the District Judge for fresh decision.

8. Hence the following order :-

(i) The petition is allowed;

(ii) The impugned order dated January 18, 2017 on the application for impleadment of the subsequent purchasers as party respondents, is quashed and set aside and the application stands remitted to the District Court, Pune for decision afresh;

(iii) The learned District Judge, Pune is directed to hear the application afresh and decide the same in accordance with law, after providing an opportunity of hearing and recording reasons for his decision;

(iv) The petition stands disposed of accordingly.

(N.J. JAMADAR, J.)