

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY AND ORIGINAL CIVIL JURISDICTION
CHAMBER SUMMONS NO.903 OF 2018
IN
SUIT NO.589 OF 2017**

V. Nandlal & Co. and ors	..Plaintiffs
Vs.	
Nafees Ahmed Siddique & Ors	..Defendants
And	
Satish Marathe & Ors	..Applicants

**WITH
NOTICE OF MOTION NO.182 OF 2018
IN
SUIT NO.589 OF 2017**

Mr. Tushar Bhavsar a/w Mr. Rutviji I/b Mr. Manoj Bhatt for Plaintiffs
Ms Usharani Marathe applicant no.4 appeared in person
Mr. Ashok K Goel for Defendant No.1

**CORAM : K.R.SHRIRAM, J.
DATE : 4th MARCH, 2019**

P.C.:

1 This chamber summons is taken out for impleadment of applicants as party defendants to the suit.

2 Plaintiffs have filed this suit for reliefs under Section 6 of the Specific Relief Act. According to plaintiffs they were dispossessed by defendants without their consent from immovable property which is the subject matter of the suit otherwise than in due course of law. Plaintiff no.1 is one V. Nandlal and Co. When the firm was registered way back in 1942,

one of the partner was one Shankar Marathe. Shankar Marathe had 5 sons, one wife and two daughters. Shankar Marathe died. Plaintiff nos.3, 4 and 5 are legal heirs of Ramakant Marathe, first son of Shankar Marathe. Applicant no.1 is third son, applicant nos.2 and 3 are the wife and son of the second son Subhash and applicant nos.4 and 5 are wife and daughter of the 4th son Arun, of Shankar Marathe. Applicants state that being legal heirs of late Shankar Marathe / his sons, applicants are entitled to be joined as party defendants because applicants also have some interest in plaintiff no.1 M/s V. Nandlal & co.

3 In a suit under Section 6 of the Specific Relief Act, 1963, court does not go into the title of the property. The court only considers whether plaintiff is dispossessed without his consent of immoveable property otherwise in due course of law, notwithstanding any other title that may be set up in such suit.

4 Assuming for the sake of argument, plaintiffs succeed in this suit, plaintiffs will only be put in possession of the suit premises and that decree of putting plaintiffs back in possession, will not be deciding whether applicants or their predecessors are partners of plaintiff no.1 or whether plaintiff nos.3, 4 and 5 are the only legal heirs of Shankar Marathe, who are entitled to be the partners of plaintiff no.1. Those are issues which will be

decided in other proceedings unconnected to the present suit.

5 In the circumstances, applicants are certainly not proper and necessary parties to the suit. Chamber summons accordingly dismissed.

6 At the same time, if applicants or plaintiff nos.3, 4 and 5 decide to settle the suit with defendants or withdraw the suit and give up their right to claim possession (for a moment this should not be construed as plaintiffs having established their right to possession), in such a case, plaintiffs shall give minimum 4 weeks notice to applicants who are at liberty, at that stage to take out such proceedings as advised.

(K.R. SHRIRAM, J.)