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IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 3080 OF 2019

Mr. Bramhajeet and Ors

....Petitioners

V/s.

Smt. Nalini Himmatlal Kantilal
and others

.....Respondents

Mr. A. S. Rao for the Petitioner

Mr. Anilkumar K. Patil i/b Mr. Rohan D. Kaiche for Respondent Nos.
4 to 10 & 20 and 22

CORAM : NITIN W. SAMBRE, J.

DATE: FEBRUARY 9, 2021.

P.C.:

1] Petitioner is Defendant in R.C.S. No. 55 of 2013 which is for setting aside the sale deed executed in favour of Petitioner.

2] There is another Suit i.e. R.C.S. No. 31 of 2012 initiated by one Kusum Patil wherein she has sought declaration of ownership over the Suit property.

3] The order impugned in the present Petition is passed below Exh. 152 wherein an Application under Order 1 Rule 10 of the CPC came to be allowed on 28/01/2019 whereby party-Defendants are permitted to be added to the Suit No. 55 of 2013.

4] While questioning the aforesaid order, the submissions of learned counsel for the Applicant-original Defendants are, provisions of Order I Rule 10 of Code of Civil Procedure, 1908 ought not to have been permitted to be invoked in favour of newly added party. A further contention is, trial in the Suit is already proceeded and same is at an advance stage.

5] Claim is opposed by the learned counsel for the Respondent in support of the order impugned.

6] Considered rival submissions.

7] Petitioner is claiming his right of succession by virtue of a sale

deed from the erstwhile owner namely Dattu Gotrane. As far as newly added parties are concerned, they claim to be successors of Dattu Gotrane claiming right in the Suit property. That being so, the Trial Court even at a stage where the trial has commenced, has permitted them to be added so that their presence is necessary for deciding the issue involved in the Suit.

8] In the aforesaid background, this Petition questioning the addition of defendants does not call for interference in the extraordinary jurisdiction of this Court.

9] Petition fails, stands dismissed.

[NITIN W. SAMBRE, J.]