

3. The petitioners, who are the original plaintiffs have filed a suit for specific performance of a conveyance deed in favour of the plaintiffs in terms of the agreement dated 10/07/1995 and a declaration is also sought to the effect that the sale deed dated 10/08/2007 executed by defendant Nos.1 and 2 in favour of defendant No.3 is illegal and null and void and not binding upon the plaintiffs. While the suit was ripe for hearing, an application was taken out by the plaintiffs seeking amendment to the plaint in view of several subsequent developments while the plaintiff was under cross-examination. The subsequent developments were in the form of some alleged acts on behalf of defendant No.4 by which he had entered into a contract of sale with several third parties and by the amendment, he sought impleadment of the third parties in the suit and also sought amendment to the prayer clause on the premise that defendant No.4 had illegally erected the structure and entered into transactions with the third parties in respect of the proposed units in the structure. The prayer clause was also sought to be amended accordingly.

4. The amendment was partly allowed and the learned Judge, barring clauses 16, 17, 20 and 21 of the amendment application, granted the the amendment. What he excluded is the proposed amendment qua the transaction entered by defendant No.4 with some third parties and he has reasoned the said rejection by recording that there is no privity of contract between the

plaintiffs and the prospective purchaser from defendant No.4 and, in any case, if this transaction is entered into during the pendency of the suit, it would be governed by the doctrine of lispendence. The rejected portion was, therefore, found to be not necessary whereas, the amendment which was necessary for effective adjudication of the suit was allowed.

5. I do not see that the impugned order suffers from any legal infirmity. The settled position of law is that in a suit for specific performance, it is only the parties to the agreement/document of indenture would be the necessary parties. The learned Judge is absolutely correct in recording that the subsequent transaction during the pendency of the suit, if any, entered into by the defendants shall be governed by the principle of lispendence and the plaintiffs are not entitled to claim anything more than that of the defendants, against whom the specific performance is sought by the plaintiffs. In the wake of the aforesaid, the impugned order is upheld and the writ petition is dismissed.

[SMT. BHARATI DANGRE, J.]