

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.2564 OF 2021

Sunil Damani Petitioner

Vs.

Sudarshan Malpani & Anr. Respondents

Mr. Sanjay Jain a/w Nivit Srivastava and Animesh Singh for Maniar Srivastava Associates for Petitioner.

Mr. Prasad Dani, Senior Counsel a/w Mr. Dakshesh Vyas i/by Amol V. Kumeria for Respondent No. 1.

Mr. Mayur Khandeparkar a/w Mr. Nakul Jain, Ms. Neuty N. Thakkar i/by Tushar Goradia for Respondent No. 2.

Coram : NITIN W. SAMBRE, J.

Date : 8th JULY, 2021

P.C.:

1. In Short Cause Suit No.112 of 2021, the Chamber Summons taken out by the Petitioner seeking leave to intervene and to implead him as a party Defendant, came to be rejected vide impugned order dated 3rd April, 2021 passed by learned Additional Sessions Judge, City Civil Court, Greater Mumbai.

2. The contention of Mr. Jain, learned counsel appearing for the Petitioner are, the document which is executed by the Petitioner under his signature, upon authorisation under a Resolution of the Trust, is under challenge in the Suit. That being so, if not necessary, he is proper party to the Suit. According to him, if the document is questioned then he needs to be heard by the Civil Court so as to establish the exact intention.

3. Mr. Dani, learned Senior Counsel supports the impugned order.

4. I hardly see any merits in the contentions raised by the Mr. Jain in support of the plea for impleadment. In my opinion, he being Trustee, in absence of Trust being party to the Suit, is neither necessary or proper party. No list is subjudice in relation to right of the Petitioner. At the most, he can be summoned as a witness. That being so, no case for interference in extra ordinary jurisdiction of this Court is made out.

5. The Writ Petition is dismissed.

(NITIN W. SAMBRE, J.)