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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
CIVIL WRIT PETITION NO. 601 OF 2022**

**SMT. SHOBHA ASHOK SUGANDHI AND PETITIONERS
ORS**

V/s.

P. PRABHAKARAN AND ANR RESPONDENTS

**Dr. Uday P. Warunjikar a/w Mr. Siddhesh Pilankar a/w Vaishnavi
Gujrathi advocate for the Petitioner
Mr. P. S. Dani, Senior Advocate i/b Prasad Kulkarni for Respondents**

**CORAM : NITIN W. SAMBRE, J.
DATE: FEBRUARY 1, 2022.**

P.C.:

1) Petitioner, a third party, took out Exh. 18, an application for impleadment under Order I Rule 10(2) of the Code of Civil Procedure, 1908 in Special Civil Suit No. 249/2019 pending on the file of CJSD Panvel. Said Application Exh. 18 came to be rejected vide impugned order dated 23/12/2021. As such, this petition.

2) Mr. Warunjikar, learned counsel for the Petitioners would urge that the lis to be adjudicated between the parties in the aforesaid Suit cannot be effectively looked into unless the Petitioner, an appropriate or necessary party is impleaded. According to him, Suit

property was owned by Petitioners' father Ashok who alleged to have transferred the same in favour of Respondent-Plaintiff vide sale deed dated 19/06/2001. It is claimed that Petitioners are in possession of the Suit property. Even if R.C.S. No. 626/2012 is dismissed, Appeal against the same is pending adjudication. That being so, he would claim that it is necessary to add him as party defendant.

3) Mr. Dani, learned senior counsel for the respondent would oppose the claim and supports the order impugned.

4) I have considered the submissions.

5) R.C.S. No. 626/2012 preferred by the present petitioner suffered dismissal vide Judgment and Decree dated 29/01/2021. In the said Decree, following issues were determined.

Sr.No.	Issues	Findings
1.	Whether the plaintiffs prove that sale deed bearing registration No. 4076/2001 dated 19/06/2001 is sham, bogus and illegal?	No (As not proved)
2.	Whether the plaintiffs have right to file the suit on behalf of the company?	No. (As not proved)

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| 3. | Whether the plaintiffs prove that sale deed bearing registration No. 4076/2001 dated 19/06/2001 is not binding on them? | No.
(As not Proved) |
| 4. | Whether the plaintiffs are entitled to get relief of cancellation of sale deed bearing registration No. 4076/2001 dated 19/06/2001? | No. |
| 5. | Is the plaintiff entitled for perpetual injunction as prayed? | No. |
| 6. | What order and decree? | The suit is dismissed. |

6) Respondent-Plaintiff is also party to the said proceedings being R.C.S. No. 626/2012 and I am informed that Appeal against the same is pending adjudication. As such, petitioner has every right to get his legal enforceable right adjudicated in the pending Appeal against Respondent who is Plaintiff in Special Civil Suit No. 249/2019.

7) In that view of the matter and having regard to the subject matter of both these suits is same, no case for interference in extraordinary jurisdiction is made out. Petition fails, stands rejected.

[NITIN W. SAMBRE, J.]