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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

WRIT PETITION 10962 OF 2012

M/s. Nigdi Land Development
Company Private Limited ... Petitioner.

Versus

The State of Maharashtra & Ors. ... Respondents.

Mr. Rohan P. Surve, Advocate a/w. Kunal Naik for the Petitioner.

Mr. A. P. Vanarse, AGP for the State – Respondents 1 and 2.
Mr. Yogesh Patil, Advocate i/by Vijay D. Patil for Respondent 3.

Mr. Shivram A. Gawade, Advocate a/w. Deepak R. More for
Respondent 4.

Mr. Tejesh Dande, Advocate a/w. Vishal Navale, Bharat
Gadhavi, Chinmay Deshpande i/by Tejesh Dande & Associates
for Respondents 5 to 9.

CORAM : ROHIT B. DEO, J.

DATE : JUNE 30, 2022

P.C. :-

1. The limited issue is whether the learned trial Court is right in allowing Application Exhibit 223 preferred by Respondents 5 and 6 for bringing them on record as legal heirs of deceased Plaintiff - Basudeo Hanumanprasad Pasari.

2. The Application Exhibit 223 dated 29.10.2010, on which order is passed, is allowed with the laconic observation that since the LRs are brought on record within limitation, they be impleaded.

3. The Defendants in the Special Civil Suit 40 of 1993, in which the said order is rendered, have only formally objected.

4. The Petitioner is Plaintiff 3 in the suit. According to the Petitioner, the legal heirs of original Plaintiff, late Basudeo Hanumanprasad Pasari, could not have been brought on record since the right to sue did not survive. In brief, the contention of the Petitioner is that in execution proceedings instituted in respect of decree of specific performance in Special Civil Suit 340 of 1995, the entire suit property is sold / conveyed in favour of the Petitioner/ Plaintiff 3 by the Court Commissioner. According to the Petitioner the relevant facts could not be placed before the trial Court since the copy of the Application preferred by the legal heirs of deceased Basudeo Hanumanprasad Pasari was not supplied to the Petitioner.

5. While the factual position is blurred, considering that the

Petitioner does not appear to have been heard, it would be appropriate if the order impugned is set aside and the trial Court is directed to consider the Applications Exhibits 223, 227 & 240 afresh after hearing all the stake holders.

6. The parties shall appear before the trial Court within 15 days, without waiting for formal notice.

7. Copy of this order shall be placed on record, if necessary, for taking the case on Board.

8. The learned trial Court shall decide the Applications Exhibits 223, 227 & 240 expeditiously and in any event within the next 30 days.

9. Suit is expedited.

10. The Petition is disposed of in the aforestated terms.

(ROHIT B. DEO, J.)

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