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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO. 7129 OF 2021**

SMT. GUNABAI JAGANNATH MHATRE
AND ORS.

.... Petitioners.

V/s

M/S. MARS INVESTMENTS PVT
AND ORS.

.... Respondents.

**WITH
WRIT PETITION NO.7130 OF 2021**

M/S. AAGAM BULDTECH

.... Petitioners.

V/s

M/S MAARS INVESTMENTS PVT. LTD.
AND ORS.

.... Respondents.

Mr. Shishir Joshi i/b Priti Joshi for the Petitioner in Writ Petition No.7129 of 2021.

Mr. D.V. Savant for Respondent No.1 in both the above Writ Petitions.

Mr. Kishore Shriyan a/w Amod Mulye a/w Bhavika Thingalaya i/b MST Legal for Respondent No.5 in Writ Petition No.7129 of 2021.

Mr. Rohit Sakhadeo a/w Pushkar Nagpurkar i/b Sakhadeo and Associates for Respondent Nos. 2 to 4 in Writ Petition No.7129 of 2021 and for Respondent Nos. 9 to 11 in Writ Petition No.7130 of 2021.

Mr. G.S. Godbole a/w Kishore Shriyan a/w Amod Mulye a/w Bhavika Thingalaya i/b MST Legal for the Petitioner in Writ Petition No.7130 of 2021.

CORAM: NITIN W. SAMBRE, J.

DATE: APRIL 05, 2022

P.C.:-

1] Both these Petitions can be conveniently disposed of by this common order.

2] Heard.

3] Third party has preferred Writ Petition No.7130 of 2021 questioning the order impugned dated 30/01/2021 passed below Exhibit-34 whereby impleadment of third party including officials of CIDCO is permitted. Accordingly amendment to the Complaint is granted.

4] Submissions of Mr. Godbole, learned Counsel for the Petitioners are, on earlier occasion vide order dated 20/4/2017 passed below Exhibit-9, Defendant Nos. 8 to 10 i.e. Officials of CIDCO were deleted as they were not necessary parties to the suit. As such, Mr. Godbole would urge that said order will operate *res judicata* against the Respondents/Plaintiffs. He would further claim that parties whose impleadment is granted are neither necessary nor proper parties to the suit. That being so, the order impugned passed below Exhibit-34 is not

sustainable.

5] As far as Writ Petition No.7129 of 2021 is concerned, Mr. Joshi, learned Counsel for the Petitioners has adopted the arguments canvassed by Mr. Godbole.

6] Counsel for the Respondents would support the order impugned.

7] Considered submissions.

8] Fact remains that Petitioners in Writ Petition No.7130 of 2021 have entered into tripartite agreement with CIDCO and Petitioners in Writ Petition No.7129 of 2021. As such, Court below, in my opinion, was justified in granting Application-Exhibit-34 based on the contents of recitals of tripartite agreement.

9] Apart from above, Court needs to be sensitive to the fact that Application-Exhibit-9 wherein deletion of officials of CIDCO was sought, was based on a plea that statutory notice was not served.

After service of such notice, impleadment is sought and granted. Petitioners being purchasers of the property during pendency of suit, Court is also required to be sensitive to the provisions of Order XXII rule 10 of the Civil Procedure Code.

10] That being so, no case for interference is made out. Both these Petitions fail and stand dismissed.

(NITIN W. SAMBRE, J.)