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IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

CIVIL WRIT PETITION NO. 5597 OF 2021

SUNIL SAMBHAJIRAO GHATAGE

....PETITIONER

V/s.

VILAS HINDURAO KALEKAR AND ORS

.....RESPONDENTS

Mr. Sugandh B. Deshmukh advocate for the Petitioner

CORAM : NITIN W. SAMBRE, J.

DATE: FEBRUARY 8, 2022.

P.C.:

1) In a Suit for specific performance being Special Civil Suit No. 317/2010, Application Exh. 115 moved by the Petitioner-Plaintiff under Order I Rule 10 of Code of Civil Procedure for impleadment of third party as Defendant nos. 15 & 16 which came to be rejected vide impugned order dated 20/02/2021.

2) Submissions of Mr. Deshmukh are, Petitioner has already registered *lis pendens*. During pendency of the Suit, rest of the Defendants have obtained permission from the Defendants who are sought to be added for carrying out construction. Since grant of

permission will destroy the very nature of the property which is subject matter of the Suit, he would claim that the Court below committed an error in rejecting the prayer.

3) I have considered said submissions.

4) At the outset, it is required to be noticed that against proposed Defendants, no relief is claimed in the Suit. Apart from above, these Defendants does not appear to be necessary or appropriate party for deciding the rival claims raised in the Suit. Suit can be decided even in absence of proposed Defendants.

5) All the aforesaid contentions of the Petitioner are rightly so dealt with by the learned Trial Court by a detailed order.

6) I hardly notice any illegality in the order impugned which warrants interference. Petition as such fails, stands dismissed.

[NITIN W. SAMBRE, J.]