

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

WRIT PETITION NO.7023 OF 2022

Shri Govind Y. Khalde and Ors. Petitioners
Vs.
Shri Prem Chellaram Tilokchandani and Ors. Respondents

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Mr. Subhash B. Desai for Petitioners in WP/7023/22.
Mr. G.S.Godbole, Senior Advocate i/by Mr. D.S.Patil for
Respondent No.1.
Mr. T.D.Deshmukh with Mr. Sagar Kursija i/by Ms. Deepali Kedar
for R.No.2.

CORAM: SANDEEP K. SHINDE, J.

**RESERVED ON : SEPTEMBER 27, 2022
PRONOUNCED ON: OCTOBER 4, 2022.**

P.C.

1. Petitioner and the Respondent No.16, instituted Special Civil Suit No.1913 of 2007 (re-numbered as Special Civil Suit No.15 of 2022) against Smt. Ranjanaraje Dabhade (Defendant No.1) and others, for declaration that their title to the Suit Land has matured by adverse possession and for perpetual injunction. Pending suit, Smt. Ranjanaraje Dabhade created third party rights in the Suit Land in favour of Mr. Prem Chellaram Tilokchandani by executing registered development agreement and Power of Attorney, on 14th December, 2006. Whereafter Mr. Prem Chellaram Tilokchandani (Respondent No.1) executed

registered sale deed on 16th September, 2009 in favour of Respondent No.2. After-which, Respondent Nos.1 and 2 sought their impleadment in the Special Civil Suit No.1937 of 2017 by moving application under Order 10 Rule 1(2) of the Code of Civil Procedure, 1908. Impleadment was allowed by the learned trial Court, they being necessary parties, vide order dated 13th July, 2012. Pending Special Civil Suit No.1937 of 2017 ('First Suit' for short), Petitioners and the Respondent no.16 instituted Special Civil Suit No.429 of 2015 ('Second Suit' for short) seeking declaration that registered development agreement and Power of Attorney executed by Ranjanaraje Dabhade in favour of Respondent No.1 (Defendant No.17) and sale deed executed by the Respondent No.1 in favour of respondent no.2 (Defendant No.19) being bogus and illegal, were not binding on them. The Second Suit was dismissed by judgment and decree dated 23rd November, 2022 whereby the trial Court held that plaintiffs therein (Petitioners herein) could not prove that registered development agreement dated 14th December, 2006 and sale deed dated 16th September, 2009 were bogus and illegal. Judgment and decree in the Second Suit has attained the finality in-as-much as plaintiffs therein have not preferred Regular Civil Appeal against the decree therein. After parties led the evidence

in the First Suit, Petitioners-Plaintiffs, moved an application under Order 1 Rule 10(2) of the Code of Civil Procedure, 1908 seeking to strike out Defendant No.17 (Respondent No.1) and Defendant No.18 (Respondent No.2) who were improperly joined. To put it differently, Petitioners, were seeking review of the order dated 13th July, 2012 by which Respondent Nos.1 and 2 were impleaded as necessary parties in the First Suit. Petitioners sought to strike out Respondent Nos.1 and 2 from the suit, on the ground that documents on the basis of which they were asserting their right in the Suit Land were found sham and bogus. In support of this contention, Petitioners, relied on subsequent events like; investigation in Crime No.11 of 2016 registered against Respondents at Vadgav-Maval Police Station, which revealed that documents-deed, on the basis of which rights asserted by the Respondent Nos.1 and 2 in the Suit Land were forged and bogus. Additionally, in the Regular Civil Suit No.1464 of 2016 ('Third Suit') filed by the Respondent No.1 against the Respondent No.2, Respondent No.1 has admitted that possession of the Suit Land was never handed over to him by erstwhile owner.

2. The learned Trial Court upon appreciating documents

and the order of impleadment dated 13th July, 2012, rejected the said application for two reasons; one, that Petitioners could not prove documents on the basis of which Respondent Nos.1 and 2 were asserting their rights in the Suit Land were either illegal or bogus and; second the application was moved after parties led the evidence and when the trial has reached at fag-end.

3. In consideration of the facts above, in my view, the impugned order is neither perverse nor erroneous on account of non-consideration of material evidence and, therefore, interference in the supervisory jurisdiction is not called for. For these reasons, Petition is dismissed.

(SANDEEP K. SHINDE J.)