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

**WRIT PETITION 5314 OF 2013
WITH
INTERIM APPLICATION 3960 OF 2021
AND
CIVIL APPLICATION 270 OF 2016
IN
WRIT PETITION 5314 OF 2013**

Shri Yashwantrao Bhimrao Deshmukh ... Petitioners.
& Ors.

V/s.

Rohan Builders India Private Limited -
through Board of Directors & Others. ... Respondents.

Mr. R. A. Thorat, Senior Advocate i/by Mr. Anilkumar Patil
for the Petitioners.

Mr. Surel S. Shah, Advocate a/w. H. N. Vakil i/by Mulla &
Mulla & CB & C for the Respondent 4, 4A, 4E, 4G & 4I.

Mr. Sagar Karsija, Advocate i/by T. D. Deshmukh for
Respondent 3A & 3B.

Mr. Y. G. Thorat, Advocate i/by A. B. Tajane for Respondent
1A to 1G.

Ms. Kavita A. Shah, Advocate for Respondent 2.

CORAM : ROHIT B.DEO, J.

DATE : JULY 21, 2022

PC :

1. The petitioners are the plaintiffs in Special Civil Suit 821 of 2011 which is instituted under the provisions of Fatal Accidents Act, 1855 (Act) seeking compensation of Rs. 4,000,000/- (Rs. Four crores only), due to death of Mr.

Vaibhav Deshmukh in the accidental collapse of newly constructed wall. The plaintiffs assert that Mr. Vaibhav Deshmukh was discharging duty as the site Engineer.

2. After the framing of the issues, the Directors of the defendant companies preferred separate applications, seeking their deletion from the cause title of the suit on the premise that the defendant companies are separate and distinct juristic entities and in the absence of any special provision in the Act, the Directors cannot be made liable for the alleged acts or omission by the defendant companies.

3. By a common order impugned dated 21.08.2012, the learned trial Judge held that the Directors of the defendant companies are not necessary parties to the suit and accordingly, exercised power under Order 1, Rule 10 of the Code of Civil Procedure and directed deletion of the names of the Directors from the cause title of the suit.

4. Having heard the learned senior counsel Mr. Thorat for the petitioners, Mr. Surel S. Shah, learned Advocate for the respondents 4, 4A, 4E, 4G & 4I, Mr. Sagar Karsija, learned Advocate for respondents 3A & 3B, Mr. Y. G. Thorat, Advocate for respondents 1A to 1G and Ms. Kavita A. Shah, Advocate for respondent 2, I am satisfied that the order impugned is unexceptionable. Nothing is brought to my notice to indicate that the Act contains any provision which can be construed as making the Directors of the defendant

companies vicariously liable for the alleged acts or omission of the defendant companies. Perusal of the plaint reveals that there is no specific role as such which is attributed to any of the Directors as would make the Directors personally liable for the tortious acts or omission of defendant companies.

5. I do not see any error in the view taken by the learned trial Judge and the petition is, therefore, dismissed.

6. However, considering that the suit, seeking compensation under the Act, is pending since 2011 it would be in the interest of justice to request the learned trial Judge to dispose of Regular Civil Suit 821 of 2022, as expeditiously as possible and in any event within the next nine months.

7. Petition is disposed of.

8. Pending applications (IA 3960/2021 & CA 270/2016) are also disposed of.

(ROHIT B. DEO, J.)

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