

drp

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO.3717 OF 2022

Shrikant Ramakant Avhad

PETITIONER

VERSUS

Gaurav Rajendra Bhalerao and Others

RESPONDENTS

.....

Mr. Ashraf Patel h/f Mr. A. P. Avhad, Advocate for the petitioner

Mr. Kishor Gadhave Patil, Advocate for respondent No.1

Mr. Narayan B. Narwade, Advocate for respondents No.2 to 4

Mr. N. L. Jadhav, Advocate for respondents No. 6 and 7

.....

[CORAM : NITIN B. SURYAWANSHI, J.]

DATE : 20th JULY, 2023

ORDER :

1. Leave to correct the prayer clause. Amendment to be carried out forthwith.
2. The petitioner is aggrieved by the order dated 1st October, 2021 passed by the learned District Judge-7, Ahmednagar below Exhibits-13 and 23 in Regular Civil Appeal No. 351 of 2018, thereby allowing the applications of third parties and permitting them to join as party respondents in the appeal.
3. Heard learned advocate for the petitioner, learned advocates for respondent No.1, respondents No.2 to 4 and

respondents No.6 and 7. Perused the memo of writ petition, annexures and the impugned order.

4. It appears from the record that compromise decree was passed between petitioner – original plaintiff and the respondents – original defendants, in respect of the suit property, in a suit filed by the plaintiff for specific performance of the contract. Since the said compromise was not acted upon, the petitioner has filed the appeal, which is pending before the Appellate Court.

5. Respondent No.1 and respondents No. 6 and 7 have filed applications Exhibits-13 and 23 in the appeal praying to add them as party respondents in the appeal on the ground that they have entered into agreement of sale with the parties in the appeal and huge amounts are paid by them as earnest amount. It is contended by them that the parties to the appeal agreed to sell the suit properties to them. Because of the amounts paid by them towards earnest money, the compromise took place between the plaintiff and the defendants and the plaintiff and the defendants agreed to sale the suit properties to them.

6. Considering these aspects, the Appellate Court has allowed the applications filed by third parties, holding that considering

the nature of transactions between the third parties and parties to the appeal, it is related to landed property, and they need to be added in appeal for just decision of the *lis*.

7. Perusal of the agreements entered into between the third parties and original plaintiff and defendants, shows that the original plaintiff and the defendants are parties to the said agreements. The plaintiff is consenting party to the agreement executed with respondents No. 6 and 7 and two other persons by original defendants.

8. So far as case of respondent No.1 is concerned, in the suit itself, there is a specific pleading that the defendants have entered into an agreement of sale of the suit property with a third party and public notice was published on 22nd May, 2014 in respect of the said transaction. An agreement of sale was executed by the original defendants in favour of respondent No.1 in respect of the suit property, even prior to the filing of the suit.

9. Considering these aspects, *prima facie*, it appears that the third parties, who are permitted to be added as respondents in the appeal, have participated in compromise talks and since agreements are executed in their favour, they are necessary and proper parties for just decision of the appeal.

10. There is no jurisdictional error or error of law committed by the Appellate Court while passing the impugned order. No illegality or perversity is found in the order impugned in the present petition. No case is made out by the petitioner to warrant interference in the impugned order in exercise of extraordinary writ jurisdiction. Writ petition being devoid of merit, is dismissed.

[NITIN B. SURYAWANSHI]
JUDGE