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

WRIT PETITION NO.7748 OF 2023

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Sitaram Jageshwar Das

... Petitioner

V/s.

The State of Maharashtra & Ors.

... Respondents

Mr. S.S. Redekar for the petitioner.

Mrs. V.S. Nimbalkar, AGP for respondent Nos.1 and 2.

Mr. Rahul Soman with Ms. Dhanshree Gaikawaiwari i/by
Bilawala & Co. for respondent No.3.

CORAM : AMIT BORKAR, J.

DATED : OCTOBER 23, 2023

P.C.:

1. The petitioner has filed S.C. Suit No.1078 of 2022 seeking injunction against the defendants not to disturb the petitioner's possession over the suit premises. Defendant No.1 is the State of Maharashtra and Defendant No.2 is the Senior Inspector of Police, Tardeo Police Station.

2. During pendency of the suit, the proposed defendant, Haji Ali Dargah Trust has filed application for impleading it as defendant No.3. By the impugned order, the Trial Court directed the plaintiff to add the said Trust as defendant No.3. Said order dated 11 January 2023 is the subject matter of challenge in the present writ petition.

3. On perusal of the prayers in the suit and the impugned order, it appears that the reliefs claimed by the plaintiff is only against defendant No.1 (State of Maharashtra) and defendant No.2 (Senior Inspector of Police, Tardeo Police Station, Mumbai). Since the plaintiff has filed a suit simplicitor for injunction, any order passed in such suit shall be binding only on defendant Nos.1 and 2. The opposition of the plaintiff to add proposed defendant No.3 is at the risk of the petitioner. The petitioner being *dominus litis*, it is for the petitioner to decide against whom he wants to proceed. However, at this stage, it needs to be made clear that any order of injunction passed or which will be passed shall not bind the proposed defendant/Trust.

4. With this clarification, in my opinion, the Trial Court could not allowed the application of the Trust as the petitioner is *dominus litis* and he is taking risk of not joining the Trust as defendant No.3.

5. The writ petition is accordingly allowed with a clarification that it is made clear that any order of injunction passed in such suit shall not be binding on the Haji Ali Dargah Trust.

6. The writ petition stands disposed of in above terms. No costs.

(AMIT BORKAR, J.)