

Nikita

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

WRIT PETITION NO.6524 OF 2021

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Maharashtra Industrial Development
Corporation ... Petitioner

V/s.

Harvinder Joginder Singh Vijan ... Respondent

Mr. Prashant Chavan a/w Mr. Meet Vora i/b Navdedeep
Vora and Associates for the Petitioner.

Mr. Saurabh S. Godbole a/w Mr. Sahil Mahajan i/b
M/s. White and Brief, for Respondent.

CORAM : AMIT BORKAR, J.

DATED : AUGUST 28, 2023

P.C.:

1. Challenge in this petition is to the order permitting the respondent to be impleaded in the place of the plaintiff. The application filed by the respondent, sought his impleadment as plaintiff in the suit. Affidavit in support of chamber summons alleges independent right as director of a company.
2. Such application appears to be filed under Order 1 Rule 10 of Code of Civil Procedure, 1908.
3. The scope of inquiry of an application under Order 1 Rule 10 is that, without presence of such person, the suit cannot be effectively and conclusively decided.

4. If the respondent claims impleadment in the suit, as a legal representatives of the plaintiff, the scope of the inquiry would be whether the right of sue survives to the respondent. The impugned order permitting application under Order 1 Rule 10 could not have been allowed by the Trial Court. Hence following order.

a) The impugned order dated 1st February 2021..is quashed and set aside.

b) However, the respondent is at liberty to file an application under Order 22 of Code of Civil Procedure, 1908. If such application is filed, the civil Court shall decide such application on its own merits irrespective of observations made in the present order.

5. The writ petition stands disposed of.

(AMIT BORKAR, J.)