

R.M. AMBERKAR
(Private Secretary)

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 5193 OF 2021

Nidhi Manish Thind & Anr.

.. Petitioners

Versus

Vishwajeet Manikrao Dandge & Ors.

.. Respondents

.....

- Mr. Atul Damle, Senior Advocate i/by Mr. Kuldeep U. Nikam for Petitioners
- Mrs. Pranita Pramod Hingmire for Respondents

.....

CORAM : MILIND N. JADHAV, J.

DATE : JANUARY 25, 2023

P.C.:

1. Heard Mr. Damle, learned Senior Advocate appearing for Petitioners and Mrs. Hingmire, learned Advocate for Respondents.

2. Perused the impugned order dated 17.03.2021 passed below Exh. 34 in Special Civil Suit No. 55 of 2019. The Application seeking impleadment has been moved by the Petitioners as a third party *inter alia* contending that the Petitioners have a substantive right in the suit property. The impugned order has been passed by the learned Trial Court by giving reasons in paragraph No. 3 of the same. After relying on the decision of the Supreme Court in the case of **Gurmit Singh Bhatia Vs. Kiran Kant Robinson & Ors.**¹, the twin tests required for satisfaction of the provisions of Order I, Rule 10 of CPC have been looked into by the learned Trial Court and in that view of the matter,

¹ 2019 ALL SCR 2467

the said Application has been rejected. I agree with the findings returned in paragraph 3 of the said order and the said order is therefore sustained.

3. It is stated that substantive suit filed by the Petitioners seeking specific performance of the agreement in respect of the same suit property is also filed and pending before the same Court. It is therefore directed that Special Civil Suit No. 55 of 2019 be heard as expeditiously as possible in order to subserve the interest of justice.

4. With the above direction, Writ Petition is disposed.

[MILIND N. JADHAV, J.]

RAVINDRA
MOHAN
AMBERKAR
Digitally
signed by
RAVINDRA
MOHAN
AMBERKAR
Date:
2023.01.30
15:32:56
+0530