

K.S. Jadhav

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION**

INTERIM APPLICATION NO.4648 OF 2022

IN

COMMERCIAL SUIT NO.10 OF 2017

Sabari Dvelopers LLP

...Applicant

In the matter between

Shankeshwar Properties Private Limited

...Plaintiff

Versus

Ariisto Shelters Private Limited & Ors.,

...Defendants

Ms. Deepa Pohuja i/b J. Law Associates, Advocate for Applicant.

Mr. Sanjil Kadam a/w Ms. Sayalee Rajpurkar i/b Kadam & Company,
Advocates for Plaintiff.

Mr. Siddharth Shah i/b DSK Legal, Advocate for Defendant No.1.

CORAM : R.I. CHAGLA J.

DATE : 31ST JANUARY, 2023.

ORDER :

1. By this Interim Application, the Applicant is seeking impleadment and substitution in place of the Original Plaintiff in the above suit. Accordingly, amendment is sought to be carried out in the Plaint in terms of Schedule annexed at Exhibit-C to the Interim Application.

2. The Applicant has stated that the Plaintiff had offered its rights in respect of the TDR which is valued at a sum of Rs.2 crores accrued on them by virtue of the Agreement dated 29th April, 2023 entered into between Defendants in lieu of part payment of the outstanding loan amount of Rs.5,01,88,140/- only. The Original Plaintiff was in financial difficulty and the Applicant was aware that monies advanced by the Applicant were used for procuring the said TDR. Accordingly, the Applicant acceded to the request of the Plaintiff and accepted the rights of the TDR valued at Rs.2 Crores as part payment of the outstanding loan amount subject to the present proceeding and sought the portion of its claim at a value of Rs.2 Crores on terms and conditions.

3. By a Deed of Assignment dated 26th April, 2021, the Plaintiff granted, assigned and transferred all its rights, title and interest in respect of the said TDR in the Applicant's favour. The Applicant has accordingly stated that he has become a just and necessary party to the present proceedings in capacity of the purchaser of said TDR and having interest in the subject matter of the suit. The Plaintiff having assigned its rights in respect of the said TDR, is not interested in pursuing the present suit and the Applicant has accordingly taken out

the present Interim Application for substitution as the Plaintiff in place of Original Plaintiff.

4. The learned Counsel appearing for the Defendant No.1 has no objection to the relief prayed for in the Interim Application being granted subject to the rights and contention being kept open.

5. In view thereof, the Interim Application is allowed and the following order is passed :

- i) The Applicant is permitted to be impleaded and substituted in place of the Original Plaintiff in above suit.
- ii) The Applicant shall carry out amendment of the Plaint in terms of the Schedule annexed at Exhibit-C to the Interim Application.
- iii) Amendment shall be carried out within a period of two weeks from the date of this order.
- iv) Needless to state that the orders passed in the above suit shall apply to the Applicant who is now the Plaintiff.
- v) Interim Application is accordingly disposed of.

[R.I. CHAGLA J.]