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C.M.P.No.102 of 2023
in A.S.No.101 of 2012

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S.S. SUNDAR, J.
and
P.B. BALAJI, J.

[Order of the Court was made by **S.S. SUNDAR, J.**]

The petitioner is a third party to the proceedings in O.S.No.78 of 2009, which is a suit for specific performance. Though the petitioner herein filed an application before the trial Court during the pendency of the suit to implead himself as a party as purchaser of the property, the said application was dismissed and thereafter, it is stated that the petitioner filed another Miscellaneous Petition in M.P.No.2 of 2012 during the pendency of the above appeal in A.S.No.101 of 2012 as against the judgment and decree in O.S.No.78 of 2009. This Court dismissed the application filed by the petitioner earlier in M.P.No.2 of 2012 in A.S.No.101 of 2012. The said order was under challenge before the Hon'ble Supreme Court by the petitioner in Civil Appeal No.63 of 2015. The Hon'ble Supreme Court, however, by order dated 06.01.2015 in Civil Appeal No.63 of 2015, set aside the order of this Court dismissing the petition filed by the petitioner and held as follows :



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“In the light of the aforesaid subsequent decision of this Court in Mumbai International Airport Private Limited (supra), we are of the view that Court it would be appropriate to allow the appellant to be impleaded in the First Appeal i.e. AS No.101 of 2012. However, such impleadment is without prejudice to the rights of the parties in the appeal to agitate all questions of law that may be open to them. Furthermore, in adjudicating the pending appeal, the High court will not permit the nature and character of the original pleadings to be altered in any manner.”

2.In the light of the order passed by the Hon'ble Supreme Court dated 06.01.2015, **this Court allows this petition** subject to the observations made by the Hon'ble Supreme Court in the Civil Appeal.

(S.S.S.R., J.) (P.B.B., J.)
16.03.2023

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