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

WRIT PETITION NO. 5425 OF 2024

~~Dara Khurshadji Aamroliya~~
(Deceased) Through Legal Heirs and Anr. .. Petitioners

Versus

~~Ramrichpal Jain~~
(Deceased) Through Legal Heirs and Ors. .. Respondents

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- Mr. Sushil A. Inamdar, Advocate for Petitioners.

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CORAM : MILIND N. JADHAV, J.

DATE : APRIL 19, 2024.

P.C.:

- 1.** Heard Mr. Inamdar, learned Advocate for Petitioners.
- 2.** By virtue of the impugned order, Application filed below Exhibit “72” in Regular Civil Appeal No.126 of 2014 before the learned District Court by the Appellant seeking to add and implead subsequent purchasers as parties has been rejected. Suit of the Plaintiff being Regular Civil Suit No.12 of 1995 was filed for possession and mesne profit. However after filing of the Suit, it was brought to the notice of the Trial Court that the parties had at an earlier point of time before filing of the Suit arrived at a compromise in an earlier Suit proceedings and in view thereof, the Suit was dismissed by the Trial Court.
- 3.** An Appeal against such dismissal of the Suit is filed before the District Court. The District Court while considering the

impleadment Application has held that the impugned Appeal is restricted only to the extent of challenging the validity and legality of the order of rejection of condonation of delay in restoration of the dismissed Suit. The learned District Court has held that in view thereof unless and until the Suit is restored, no purpose whatsoever will be served by allowing the Appellant to add the subsequent purchasers of the Suit property.

4. I am inclined to agree with the findings returned by the learned District Court in paragraph No.9 of the impugned order dated 22.01.2024 that unless and until the Suit is restored, there would be no substance in impleadment of third parties.

5. Mr. Inamdar, learned Advocate would submit that Regular Civil Appeal No.126 of 2014 is almost ripe for final hearing and is being disposed by the District Court. In that view of the matter, Application filed for impleadment has been correctly decided.

6. It is clarified that subject to the outcome of Regular Civil Appeal No.126 of 2014, the party namely the Appellant shall be at liberty to file appropriate Application seeking impleadment as shall be available to the said party in law and if any such Application is filed, the said Application shall be determined strictly in accordance with law by the Courts below.

7. In view of the above observations, the order dated 22.01.2024 is sustained. Needless to state that this Court has not opined on any merits of the matter, save and except having considered the order dated 22.01.2024 in the facts and circumstances of the present case.

8. With the above directions, Writ Petition is dismissed and disposed.

[MILIND N. JADHAV, J.]

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