

HARSHADA H. SAWANT
(P.A.)

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

CIVIL REVISION APPLICATION NO.74 OF 2023

Dattatray Jayaram Jadhav

.. Applicant

Versus

Nandu Nalawade and Ors.

.. Respondents

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- Mr. Ashutosh Kaushik a/w. Ms. Namrata Parmar i./by M/s. Kaushik and Co., Advocates for Applicant.
- Mr. Manoj Kumar Upadhyay, Advocate for Respondents.

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CORAM : MILIND N. JADHAV, J.

DATE : JANUARY 24, 2024

P.C.:

- 1.** Heard Mr. Kaushik, learned Advocate for Applicant and Mr. Upadhyay, learned Advocate for Respondents.
- 2.** Civil Revision Application takes exception to the order dated 16.09.2022 and has seen the light of the day today.
- 3.** I am informed by the learned Advocates appearing for the respective parties that trial in the suit proceedings is over, suit has been expedited and final arguments are fixed by the learned Trial Court. Suit is of the year 1990.
- 4.** Application seeking amendment to the suit plaint filed by way of Chamber Summons No.1581 of 2021 is rejected by the impugned order. Amendment was to the effect that apart from the original Defendant Nos.1 and 2, the suit plaint should implead N. G.

Enterprise, a partnership firm also.

5. With the able assistance of both the learned Advocates I have perused the cause title in the suit plaint in Suit No.57 of 1990 which is at page No.20 of the CRA, Agreement for Sale at Exhibit-D at page No.68 of the CRA and the impugned order dated 16.09.2022 which is at Exhibit-G page No.116 of the CRA.

6. What I find is that the original Defendant Nos.1 and 2 have been impleaded as carrying on business as builders in name and style of N. G. Enterprise which is infact described as a partnership firm in the Agreement for Sale which is the subject matter of the Suit. Considering provisions of Section 25 of the Indian Partnership Act, 1932 that liability of partners of the partnership firm would be joint and several, the nomenclature of Defendants has clearly stated that both Defendant Nos.1 and 2 carry on business as builders and has been described as vendors in the Agreement for Sale of which specific performance is sought. Both Defendant Nos.1 and 2 are the only partners of the partnership firm.

7. In view of the above, I am inclined to accept the reasons returned by the learned Trial Court in paragraph No.13 and sustain the impugned order. No further clarification is required.

8. I am informed that the suit is filed in the year 1990 and is slated for final arguments on 12.02.2024. Learned Trial Court is

requested by this Court to conclude and determine the suit as expeditiously as possible and preferably within a period of six weeks from that date without delaying hearing of the said suit any further. The learned Trial Court shall undoubtedly not be uninfluenced by any findings in the impugned order and this order at time of hearing of the suit proceedings. All contentions of both the parties before the learned Trial Court are expressly kept open.

9. Civil Revision Application is disposed.

H. H. SAWANT

[MILIND N. JADHAV, J.]

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HARSHADA
HANUMANT SAWANT
Date: 2024.01.24
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