

HARSHADA H. SAWANT
(P.A.)

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION (ST.) NO.31081 OF 2023

Sonal Mukesh Mistry

.. Petitioner

Versus

Premji Khimji Chedha & Ors.

.. Respondents

.....

- Mr. Amol P. Mhatre, Advocate for Petitioner.

.....

CORAM : MILIND N. JADHAV, J.

DATE : JANUARY 03, 2024

P.C.:

- 1.** Mentioned. Not on Board. Taken on Board.
- 2.** Heard Mr. Mhatre, learned Advocate for Petitioner.
- 3.** Perused the praecipe dated 03.01.2024 and the Writ Petition.
- 4.** This Writ Petition takes exception to the order dated 10.01.2023 passed below Exhibit-115 in Special Civil Suit No.103 of 2010. Mr. Mhatre, learned Advocate appearing for the Petitioner would submit that the Application below Exhibit-115 was filed for seeking impleadment in the suit proceedings. He would submit that the suit properties initially and originally belonged to one Mr. Ishwarlal Harkisandas Dalal and Mr. Thakorbhai Harkisandas Dalal.
- 5.** He would submit that the Petitioner is one of the legal heir

of the original owners of the suit property. He has fairly submitted and informed the Court that the properties have been sold by the original Petitioners to the Defendant No.1 – Rakesh Rajendrakumar Agarwal on 21.11.2013 by a of registered document.

6. He would further contend that despite the fact that the property has been sold by the original owners to the Defendant No.1, in order to support the case of the Defendant No.1 in the suit proceedings, the proposed Defendant i.e. Applicant / Petitioner filed Application seeking his impleadment.

7. I have perused the impugned order passed below Exhibit-115 in Special Civil Suit No.103 of 2010 which is appended at page No.44 of the Writ Petition and on reading, it clearly records that the right, title and interest of the original owners Mr. Ishwarlal Harkisandas Dalal and Mr. Thakorbhai Harkisandas Dalal were transferred to the Defendant No.1 by a registered sale deed dated 21.11.2013 and in that view of the matter the learned Trial Court returned the finding that presence of the Applicant / Petitioner i.e. proposed Defendant shall not be necessary at all.

8. However in the event if Defendant No.1 desires to call the Applicant as his witness to give evidence with respect to the suit properties, it shall be the prerogative of the Defendant No.1 to do so strictly in accordance with law. I find no reason to interfere with the impugned

order which returns cogent findings which I am inclined to accept. The findings returned in paragraph No.4 of the impugned order are upheld and confirmed. Resultantly, the impugned order is also upheld and confirmed.

9. With the above directions, Writ Petition is dismissed.

H. H. SAWANT

[MILIND N. JADHAV, J.]

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