

HARSHADA H. SAWANT
(P.A.)

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.12497 OF 2024

Bharat Phoolchand Gupta

.. Petitioner

Versus

Abhishek Ashokkumar Jain and Ors.

.. Respondents

WITH

WRIT PETITION NO.12557 OF 2024

Ashwin Mangal Sethia

.. Petitioner

Versus

Abhishek Ashokkumar Jain and Ors.

.. Respondents

WITH

WRIT PETITION NO.12496 OF 2024

Lalman Ramnarayan Gupta and Anr.

.. Petitioners

Versus

Abhishek Ashokkumar Jain and Ors.

.. Respondents

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- Mr. Bipin Joshi a/w. Ms. Sakshi Agarwal and Ms. Janhavi Waze, Advocates for Petitioners.
- Mr. Mandar Soman a/w. Mr. Mani Thevar i./by Ganesh & Co., Advocates for Respondents.

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CORAM : MILIND N. JADHAV, J.

DATE : SEPTEMBER 24, 2024

P.C.:

- 1.** Mentioned. Not on Board. Taken on Board.
- 2.** Heard Mr. Joshi, learned Advocate for Petitioners and Mr. Soman, learned Advocate for Respondents.
- 3.** Perused the praecipe dated 24.09.2024 and the Writ Petitions. Common order is passed as facts are common and identical.

4. He would submit that by virtue of identical impugned order dated 13.02.2024, impleadment of the proposed Defendant No.2 in the suit plaintiffs has been allowed. According to Plaintiff, Defendant No.2's impleadment cannot be allowed because he has no nexus with the property.

5. However in the impugned orders, there is a *prima facie* finding recorded by the learned Trial Court that there is a registered conveyance in favour of proposed Defendant No.2 and in that view of the matter, he is a proper and necessary party. Hence, his impleadment is allowed.

6. Mr. Joshi would however submit that if the said conveyance is read, then on interpretation of what is stated therein, according to Plaintiffs, property of Defendant No.2 stands excluded. This submission of Mr. Joshi is staunchly refuted by Mr. Soman who appears for proposed Defendant No.2.

7. After hearing both learned Advocates for the respective parties, *prima facie*, it appears that it would be required to interpret the subject conveyance / clause in conveyance in order to ascertain as to whether the subject property is excluded or otherwise. I have expressed my mind to Mr. Joshi. Keeping contentions of the Plaintiffs open to enable the learned Trial Court to frame an appropriate issue in this regard Mr. Joshi would make a request to the Court. He would

submit that he has instructions to withdraw the present Writ Petitions and he would implead the proposed Defendant No.2. Resultantly the challenge in the impugned orders is withdrawn by him. The submissions made by Mr. Joshi appear to be fair. Impugned orders are therefore sustained.

8. Hence in that view of the matter, Writ Petitions are allowed to be withdrawn with a direction that Plaintiffs shall implead proposed Defendant No.2 as proper and necessary party in all 3 suits and also keeping contention of Plaintiffs open to frame appropriate issue which the Trial Court shall do so with respect to the exclusion of the property of Defendant No.2 from the subject conveyance.

9. At the further request of Mr. Joshi, the Plaintiffs are permitted to carry out the above amendment to the above effect of impleadment of Defendant No.2 within a period of two weeks from today. Registry of the learned Trial Court shall permit the Plaintiffs to do so. After carrying out the amendment, amended copy of suit complaints shall be served on Defendant No.2 and thereafter suits shall strictly be proceeded in accordance with law. This order shall apply to all 3 impugned orders and in all 3 suits.

10. In view of the above, Writ Petitions are disposed.