

VRJ

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIRCUIT BENCH AT KOLHAPUR
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.14272 OF 2023

VAIBHAV
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Mahadev Shankar Gaikwad

... Petitioner

V/s.

Vishwaminar Realities Firm

Through Its Partner Rajwardhan Suresh

Bhumkar & Ors.

... Respondents

Rhea Rajesh (through V.C.) for the petitioner.

CORAM : S. G. CHAPALGAONKAR, J.

DATED : DECEMBER 10, 2025

P.C.:

1. Present writ petition takes exception to order dated 14th March 2023 passed by Civil Judge, Junior Division, Kolhapur, below Exhibit 118 in Regular Civil Suit No. 2158 of 2012, whereby petitioner's application seeking impleadment in the suit has been rejected.

2. Respondent No.1-firm (original plaintiff) instituted a suit for specific performance of contract based on an agreement to sell entered into with defendant. The partnership agreement dated 4th July 2010 specifically indicates that petitioner is one of partners of

firm. In this background, petitioner filed an application seeking his impleadment, contending that he continues to be a partner in firm but has not been made a party to the suit. The respondents opposed the petitioner's impleadment on the premise that he has been expelled from partnership firm. Trial Court accepted this contention and refused to entertain petitioner's claim for impleadment in suit.

3. On 21 March 2024, this writ petition was taken up for hearing before this Court, and after making detailed observations regarding subject matter of suit and petitioner's claim for impleadment, it was clarified that writ petition would be disposed of at the admission stage itself. It was further clarified that if respondents do not remain present, writ petition would be disposed of in accordance with law. In spite of aforesaid order, none appeared on behalf of respondents before this Court.

4. Learned advocate appearing for petitioner took this Court through pleadings in the plaint, partnership agreement, and impugned order. She submitted that while rejecting petitioner's impleadment, Trial Court blindly relied on respondents' statement that petitioner had been expelled from partnership firm. Record

indicates that there is nothing to demonstrate that petitioner, who was admittedly a partner in the firm, was expelled by following due process of law or he ceased to be a partner in firm. Apparently, when suit is instituted in the name of a firm seeking specific performance of the agreement entered with defendants, plaintiff would have right to be impleaded in the suit.

5. In that view of the matter, impugned order dated 14th March 2023 passed by Civil Judge, Junior Division, Kolhapur, below Exhibit 118 in Regular Civil Suit No. 2158 of 2012 cannot be sustained in law and same is quashed and set aside.

6. The application filed below Exhibit 118 stands allowed.

7. The writ petition stands disposed of accordingly.

8. Pending interlocutory application(s), if any, stand disposed of.

(S. G. CHAPALGAONKAR, J.)