

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY**  
**CIVIL APPELLATE JURISDICTION**  
**WRIT PETITION NO. 5552 OF 2025**

Prakash Digambar Kamble and Ors      ...      Petitioners

V/s.

The Municipal Commissioner and ...      Respondents  
Ors.

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Mr. M.J. Bhatt, for the Petitioners.

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**CORAM    :    N.J. JAMADAR, J.**  
**DATE     :    30TH APRIL 2025.**

**PC:**

1.    The challenge in this petition is to an order dated 28<sup>th</sup> March 2025 passed by the learned Civil Judge, Thane whereby an application preferred by the respondent no. 3 to implead it as a party defendant to the suit, being Regular Civil Suit No. 516 of 2024, instituted by the petitioners/plaintiffs came to be allowed.

2.    The petitioners claim to be the allottees of the shop premises allotted in the year 1976 by the Konkan Housing and Area Development Board. As the respondent no. 1, Municipal Corporation started to implement a Public Private Partnership Scheme (PPP Scheme) in an unlawful and illegal manner, the petitioners instituted a Suit, being Regular Civil Suit No. 637 of 2022, for declarations and consequential reliefs. The respondent nos. 1 and 2 again issued a fresh

notice on 27<sup>th</sup> September 2024 directing the petitioners to vacate the respective shops within 48 hours of the said notice. The petitioners were, thus, constrained to institute a fresh Suit, being Regular Civil Suit No. 516 of 2024.

3. In the said suit, the respondent no. 3, who claims to be the developer of the said PPP Scheme filed an application to implead it in the suit asserting that any orders that may be passed in the suit would affect the interest of respondent no. 3 as it has invested a substantial amount for the said PPP Scheme.

4. By the impugned order, the learned Civil Judge was persuaded to allow the application, observing, inter alia, that in the first suit being Regular Civil Suit No. 637 of 2022, the respondent no. 3 was impleaded as a party defendant and the interim orders passed by the Trial Court were adversely affecting the interest of the respondent no. 3. Thus, for effective adjudication of the suit the presence of respondent no. 3 was necessary.

5. Being aggrieved, the petitioners have invoked the writ jurisdiction.

6. Mr. Bhatt, the learned counsel for the petitioners, would submit that the challenge in the instant suit was restricted to the legality and validity of the notice dated 27<sup>th</sup> September 2024. The respondent no. 3 is neither a necessary nor a proper party to such suit which assails the legality and propriety of the action of the respondent nos. 1 and 2.

7. As the factum of impleadment of respondent no. 3 in the previous suit weighed with the Trial Court in permitting the

impleadment of the respondent no. 3 in the instant suit, this Court has perused the plaint in Regular Civil Suit No. 637 of 2022. In the said suit, the petitioners have sought diverse reliefs including declaration against the legality and validity of the PPP Scheme. The challenge in the said suit is comprehensive. The respondent no. 3 has been impleaded in the said suit as a party defendant as in the context of the prayers therein the presence of respondent no. 3 is necessary for a complete and effectual adjudication of the dispute therein.

8. The submission of Mr. Bhatt that the challenge in the instant suit is restricted to notice dated 27<sup>th</sup> September 2024 loose, sight of the fact that the said notice is issued to implement the said PPP Scheme. The impugned notice emanates from the said PPP Scheme and has been issued to enforce the said Scheme. If the impact test is applied, the respondent no. 3 appears to be a necessary party to the instant suit as the petitioners essentially assail the legality and validity of the action of respondent nos. 1 and 2 and any order passed therein in the said suit would materially affect the rights of respondent no. 3.

9. The learned Civil Judge, thus, committed no error in directing the impleadment of respondent no. 3.

10. Thus, the petition stands dismissed.

(N.J. JAMADAR, J)