

Santosh

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

WRIT PETITION NO. 8997 OF 2025

Navraj Packers

..Petitioner

Versus

Noor Bano Abdur Rashid Ansari & Anr

...Respondents

Mr. S. Shamim, a/w Murtuza Slatewala, i/b S. Shamim & Co.,
for the Petitioner.

CORAM: N. J. JAMADAR, J.

DATED : 10th JULY 2025

P.C.:

1. Heard the learned Counsel petitioner.
2. The challenge in this petition is to an order dated 2nd January, 2025 passed by the learned Judge, Court of Small Causes, in R.A.E. Suit No.247 of 2023, whereby the application preferred by the petitioner/defendant – tenant seeking a direction to the plaintiff to join the other co-owners and heirs of the erstwhile owners as parties to the suit for eviction instituted against the petitioner, came to be rejected.
3. The Trial Court was of the view that all co-owners are not necessary parties to a suit for eviction. Eventually, the Trial Court observed that, whether the suit is maintainable for non-

joinder of the other co-owners would be adjudicated at the stage of final hearing of the suit.

4. Mr. Shamim, the learned Counsel for the petitioner, submits that there is a serious dispute amongst the co-owners as regards the entitlement of the plaintiff to institute the suit for the eviction of the petitioner and, at any rate, the other co-owners have not given consent for the institution of the suit, and, therefore, since the other co-owners have objection for the institution of the suit, the other co-owners are necessary parties. Reliance was placed by Mr. Shamim on the judgment of the Supreme Court in the case of *Kasthuri Radhakrishnan and others vs. M. Chinniyan and another*¹.

5. Whether the suit is bad for non-joinder of other co-owners in view of the alleged objection of the other co-owners to the institution of the suit for eviction, is a matter for adjudication at the trial. The defendant had already filed the reply and raised the ground of non-joinder of necessary parties.

6. In a situation of this nature, the Plaintiff runs the risk of being non-situated for the non-joinder of necessary parties. Needless to clarify that, if the Court eventually comes to the conclusion that the suit was not maintainable on account of

¹ (2016) 3 Supreme Court Cases 296.

non-joinder of the other co-owners, in view of their objection to the institution of the suit, the plaintiff would suffer the consequences.

7. Subject to aforesaid clarification the petition stands dismissed.

[N. J. JAMADAR, J.]