

MJ Jadhav

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO. 11367 OF 2025**

M/S Pragati Developers Throu. Its Partners ... Petitioner

Vs.

M/S Cornice Realty Pvt Ltd Throu. Its Director ... Respondents
Yogesh Vasant Wani And Ors.

Mr. Arun Longani for the Petitioner.

CORAM : GAURI GODSE, J.

DATED : 3rd SEPTEMBER 2025

ORDER:

1. This application is filed by a third party, whose application for impleadment in the suit filed by respondent no.1 is rejected.
2. Respondent no.1 has filed a suit seeking various reliefs in respect of three properties described in plaint paragraphs (1a) to (1c). The suit seeks a declaration of title in respect of properties described in clauses (1a) to (1c) and further declaration of right of use and access over 20 feet wide road described in clause (d) of the plaint.
3. The suit further press for an injunction against the defendants in the suit. In this suit, the petitioner filed an application under order I

Rule 10(2) of the Civil Procedure Code for impleadment as a defendant. This application is rejected by the impugned order.

4. Learned counsel for the petitioner submits that the plaintiff is owner of the property described in plaint paragraph (1a). However, the properties described in plaint paragraphs (1b) and (1c) continues to be owned by the petitioner.

5. Learned counsel for the petitioner further submits that though the petitioner had executed the sale deed in favour of the plaintiff, the consideration part is not yet completed. Hence, the suit was filed by the petitioner which was dismissed and the appeal is pending before the Hon'ble Apex Court. He therefore submits that the petitioner is a necessary party in the present suit as the petitioner continues to be owner of the properties described in plaint paragraphs (1b) and (1c). He therefore submits that the petitioner is a necessary party to the suit as the petitioner's rights on ownership would be affected in the event any orders are passed in favour of plaintiff in the suit.

6. I have perused the papers of the petition. The copy of the plaint is annexed to the petition. The prayers in the suit regarding declaration and injunction are against respondent nos. 2 to 4. I have perused the application for impleadment. In the application,

the petitioner claims that the petitioner continues to be owner and in possession of the suit properties described as (1b) and (1c). However, learned counsel for the petitioner submits that the possession is with the plaintiff. According to the submissions made on behalf of the petitioner and the averments in the application there appears to be no dispute that sale deed was already executed by the petitioner in favour of the plaintiff. However, the dispute raised by the petitioner is pending before the Hon'ble Apex Court.

7. In these facts and circumstances, the learned trial Judge has rejected the application by observing that the plaintiff is the dominus litis of the litigation and the plaintiff cannot be forced to add parties against whom no relief is claimed. The learned Judge has further observed that the plaintiff has claimed removal of encroachment and injunction regarding constructions against the defendants in the suit. The learned Judge has also referred to the 7/12 extract relied upon by the plaintiff to claim ownership over the suit property.

8. So far as ownership is concerned even according to the petitioner, a sale deed was executed in favour of the plaintiff. However, the dispute is raised by the petitioner regarding the consideration amount and hence, suit was filed and the dispute is pending before the Hon'ble Apex Court.

9. In view of these facts, the plaintiff in the present suit cannot be forced to add the present petitioner as a party defendant. It is always open for the petitioner to agitate its own grievances by adopting appropriate proceedings. The law regarding the plaintiff being dominus litis in the proceedings initiated by the plaintiff is no more *res integra*. Hence, the reasons recorded in the impugned order would not require any interference in exercise of the discretionary jurisdiction under Article 227 of the Constitution of India.

10. The Writ petition is dismissed.

(GAURI GODSE, J.)