


MHKO110007782021 	<p style="text-align: center;"><u>ORDER BELOW EXH. 13</u> <u>IN R.C.S. No. 101/2021</u></p> <p style="text-align: center;"><u>Kanta Ashok Chavala</u></p> <p style="text-align: center;"><u>Vs.</u></p> <p style="text-align: center;"><u>Krushnat @ Kishor Shamu Kurane</u></p>
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The present application is filed by the third party applicant Suryamala Sharadkumar Surpuriya through Power of attorney Sumit Sharadkumar Surpuriya for impleading her as a defendant to the present suit. The plaintiffs have filed their say at Exh. 18 and have strongly objected to it.

02. Perused the record. Heard the advocates for both sides.

03. The Ld. Advocate for the third party applicant submitted that, the defendant No. 1, 2 and 6 other persons vide registered agreement to sale Dtd. 03/01/2022 bearing Registration No. 30/2022 have sold 1H 4R to the third party applicant and in consequence to the registered agreement to sale have also executed a power of attorney and possession receipt in the favour of third party applicant. Since then, third party applicant is in peaceful possession of the suit property. He further submitted that, the third party applicant has installed a borewell in the suit property on her own expense and has also constructed two rooms for maintenance of the suit property and is cultivating crops in the suit property. He submitted that, he is a necessary party to the suit and hence, he prayed to allow the application.

04. The Ld. Advocate for the plaintiffs submitted that, the present suit is filed for specific performance. The said agreement Dtd. 03/01/2022 bearing Registration No. 30/2022 is executed by the defendant No. 1 and 2 in favour of the third party applicant after the institution of the suit and hence, the principle of lis pendense is applicable to the said transaction. As the third party applicant is not a necessary party to the present suit, there is no need to include her as a defendant. He further submitted that, the plaintiffs are the dominus litus of their suit and it is their decision as to whom to implead in the present suit. The agreement to sale and all other related documents executed thereof between the third party applicant and the defendants of the suit property are not binding on the plaintiffs. The presence of the third party applicant is not necessary in this suit. Therefore, he prayed to reject the application.

05. The present suit is filed for specific performance of the oral agreement Dtd. 14.10.2009 and for perpetual injunction. On perusal of record, it prima facie appears that, the reliefs sought in the prayer clause of the plaint against the defendant No. 1 and 2 in respect of the suit property are specific and that it is not directly concerned with the third party applicant. Also, as the agreement bearing Registration No. 30/2022 appears to have been executed after the institution of the suit, the third party applicant does not have a right to relief in the context of what is claimed by the plaintiffs against the defendant No. 1 and 2.

06. Moreover, the third party applicant has neither pleaded

nor has filed any documents on record to show that, she is a bonafide purchaser. Per contra, the pleadings in the application prima facie reveal that, the third party applicant had knowledge of the present suit at the time of the execution of the document bearing Registration No. 30/2022 and all the subsequent documents thereof. Therefore, prima facie, the doctrine of lis pendense become applicable to the third party applicant and in such circumstances, she is not a necessary party to the suit.

07. The plaintiffs in the present case are the dominus litus (Master of the litigation) of the suit brought by them. They cannot be forced to add parties against whom no relief is sought by them. As discussed above, as the relief sought by the plaintiffs does not directly involve the third party applicant, she does not qualify as a necessary party under Order I Rule X of C.P.C. If the third party applicant is included in the present suit, then it would unnecessarily complicate the present suit by transforming it into title dispute as held by the Hon'ble Supreme Court in *Gurmit Singh Bhatia Vs. Kiran Kant Robinson* reported in AIR 2019 S.C. 3577. Moreover, the third party applicant is in no way concerned with the original oral agreement Dtd. 14.10.2019. As the third party applicant is not a necessary party to the suit, therefore, there seems no necessity to implead her as party defendant to the present suit.

08. As every party approaches the Court to exercise a lawful right with a hope to seek a equitable relief, it is not appropriate to impose the costs of this application on the third party applicant. No

prejudice will be caused to the third party applicant if the present application rejected. Therefore, in the interest of the justice, the following order is passed :-

ORDER

1. Application at Exh. 13 is hereby rejected.
2. No order as to costs.

Date : 24/03/2025
Place: Peth-Vadgaon

Sd/-
(R. S. More)
3rd Jt. Civil Judge, Jr. Dn., Peth-Vadgaon.