

[CNR NO. : MHSCA2003486-2009]

IN THE COURT OF SMALL CAUSES AT MUMBAI

ORDER BELOW EXHIBIT - 60

IN

R. A. D. SUIT NO.440 OF 2009

SHRI. DINESH GIGA WAGH

... Plaintiff.

Versus

SANGHAVI PREMISES PVT. LTD.

... Defendant.

And

Sanghvi Parassva Buildcon LLP

... Respondent.

Madhuri Raibagkar, Ld. Advocate for Plaintiff.

Mr. Pramod M. Patil, Ld. Advocate for Defendant.

Coram : Smt. J. D. Hushangabade

Judge, C. R. No.21

Date :- 12.07.2024

Oral Order :-

1. This is an application filed by the plaintiff for amendment and the respondent may be made party defendant No.2.

2. According to plaintiff, the suit premises is situated on the plot bearing Collector's old Nos.279, 281, 287 and 299 Collector's New Nos.12285, 12316 and new Survey No.4/2815 and Cadastral Survey No.253 of Lower Parel Division admeasuring about 1,481 square yards equivalent to 1,238.30 sq. meters and assessed by the Bombau Municipality under "G" ward No.2102(4), new Street Nos.446 and 446B, Tulsi Pile Road and the structures standing thereon. The defendant had purchased the property vide registered

Conveyance Deed dated 12.07.2007. It has come to the knowledge of the plaintiff that the defendant abovenamed, the landlord and owner with respect to the said plot has sold and transferred the said plot to one "Sanghvi Parassva Buildcon LLP, i.e. the respondent abovenamed, vide Deed of Conveyance dated 30.03.2021. The defendant thereafter applied for certified copy of the Conveyance Deed and obtained the same on 11.10.2023. In pursuance of the said Conveyance deed dated 30.03.2021, it is therefore become just and necessary that the respondent is made party defendant No.2 to the present suit.

3. The defendant has filed reply to this application at Exh.63 and denied all the contentions made in the application. According to defendant, application is not tenable at the present stage of the suit inasmuch as both the parties have closed their evidence long back and the suit is being listed for final hearing from 01.09.2021. The plaintiff has not mentioned in his application any provision of Law under which the said application is taken out by the plaintiff. The plaintiff has not mentioned in his application when he got the knowledge of the Conveyance Deed dated 30.03.2021. Thus, the application is totally misconceived and untenable in law and deserves to be dismissed on this ground alone. The plaintiff has failed to plead as to why they need to implead said proposed defendant as party defendant to present proceeding. Lastly, the defendant submits that the application deserves to be dismissed summarily with heavy compensatory and exemplary costs.

4. I have heard Ld. Advocate for the plaintiffs and defendants. It appears from perusal of Conveyance Deed dated

: 3 :

30.03.2021 that the defendant abovenamed, the landlord and owner with respect to the said plot has sold and transferred the said plot to one "Sanghvi Parassva Buildcon LLP i.e. the respondent abovenamed, vide Deed of Conveyance dated 30.03.2021. The defendant thereafter applied for certified copy of the Conveyance Deed and obtained the same on 11.10.2023. In pursuance of the said Conveyance deed dated 30.03.2021, to avoid further complications, multiplicity of proceeding and to decide the real controversy between the parties to the suit finally, it is just and necessary that the respondent be made party as defendant No.2 to the present suit. Hence, I proceed to pass the following order :-

: ORDER :

- 1) Application Exh.60 is allowed.
- 2) Permission is granted to the plaintiff to carry out necessary amendment in the plaint as per schedule annexed to this application on or before next date and supply amended copy of plaint.
- 3) No order as to costs.

Date : 12.07.2024

**(J. D. Hushangabade)
Judge
Court Room No.21**