

**HIGH COURT OF JUDICATURE FOR RAJASTHAN
BENCH AT JAIPUR**

S.B. Civil Writ Petition No. 5797/2021

B.G. Hotels Pvt. Ltd and Anr.

----Petitioners

Versus

Jaipur Development Authority and Anr.

----Respondents

For Petitioner(s)	:	Mr. S.S. Hora
For Respondent(s)	:	Mr. Anil Mehta, AAG with Mr. Yashodhar Pandey and Mr. Sandesh Khandelwal

HON'BLE MR. JUSTICE MAHENDAR KUMAR GOYAL

Order

29/08/2022

The matter comes up on an application (2/2022) filed by the applicant-Shri Ram Sharan Singh seeking his impleadment as respondent in the instant writ petition.

Learned counsel for the applicant submits that subject land is public land and he has filed a D.B. Civil Writ Petition No.11708/2021 against the petitioner and other respondents seeking an enquiry into the illegal uses of the land whereupon, a Division Bench of this Court has, vide its order dated 25.10.2021, granted liberty to the State/JDA to examine their records and to take such remedy as may be available to them under the law. He submits that the action against the petitioners has been taken by the respondents/JDA on his representation and hence, he may be impleaded as respondent.

Opposing the prayer, learned counsel for the petitioners submitted that a prayer in the writ petition has been made to

regularize and allot the subject land to them with a further direction to the respondents not to interfere in its use by them. Learned counsel submitted that it is a lis in between them and official respondents and the applicant not being a necessary or proper party, cannot be impleaded as respondents. He, in support of his submission, relied upon a judgment of Hon'ble Apex Court of India in case of **Mumbai International Airport Private Limited vs. Regency Convention Centre and Hotels Private Limited and Ors.: (2010) 7 Supreme Court Cases 417.**

Heard. Considered.

Indisputably, it is a lis in between the petitioners and the official respondents. This Court is not satisfied that the applicant is either a necessary or a proper party in the litigation. Their Lordships have held in case of **Mumbai International Airport Private Limited** (supra) held as under:

"15. A 'necessary party' is a person who ought to have been joined as a party and in whose absence no effective decree could be passed at all by the Court. If a 'necessary party' is not impleaded, the suit itself is liable to be dismissed. A 'proper party' is a party who, though not a necessary party, is a person whose presence would enable the court to completely, effectively and adequately adjudicate upon all matters in disputes in the suit, though he need not be a person in favour of or against whom the decree is to be made. If a person is not found to be a proper or necessary party, the court has no jurisdiction to implead him, against the wishes of the plaintiff. The fact that a person is likely to secure a right/interest in a suit property, after the suit is decided against the plaintiff, will not make such person a necessary party or a proper party to the suit for specific performance.

27. On a careful examination of the facts of this case, we find that the appellant is neither a necessary party nor a proper party. As noticed above, the appellant is neither a purchaser nor the lessee of the suit property and has no right, title

or interest therein. First respondent - plaintiff in the suit has not sought any relief against the appellant. The presence of the appellant is not necessary for passing an effective decree in the suit for specific performance. Nor is its presence necessary for complete and effective adjudication of the matters in issue in the suit for specific performance filed by the first respondent-plaintiff against AAI. A person who expects to get a lease from the defendant in a suit for specific performance in the event of the suit being dismissed, cannot be said to be a person having some semblance of title, in the property in dispute."

The Hon'ble Apex Court of India has, in case of **Mohd. Hussain Gulam Ali Shariffi Vs. Municipal Corporation of Greater Bombay & Ors.: 2016 SCC Online SC 1887**, held as under:

"It is a settled principle of law, which does not need any authority to support the principle, that the plaintiff being a dominus litis cannot be forced to add any person as party to his suit unless it is held keeping in view the pleadings and the relief claimed therein that a person sought to be added as party is a necessary party and without his presence neither the suit can proceed and nor the relief can be granted. It is only then such person can be allowed to become party, else the suit will have to be dismissed for non-impleadment of such necessary party. Such does not appear to be a case here.

We do not find that the presence of respondent Nos. 2 and 3 in the facts of this case is required for deciding the legality of notice impugned in the suit on merits because the dispute centers around the question of legality and validity of the notice which, as mentioned above, arises between respondent No.1, who has issued the notice, and the person to whom it is given, i.e., appellant.

In the suit in question, the Court is not called upon to adjudicate the rights between the appellant and respondents Nos. 2 and 3 in relation to the suit house. Any such dispute, if

arises, the same can be decided in the separate suit, which is pending between the parties or may be filed, if required, by the parties against each other but such dispute cannot be tried on the cause of action pleaded in the present suit by the appellant where the lis is essentially between the appellant (plaintiff) and respondent No. 1. Merely because the suit house is the subject matter between all the parties is no ground to get the dispute arising between the parties settled in one suit regardless of the nature of cause of action on which the suit is founded."

A Division Bench of this Court has, in case of **Surendra Kumar Garg & Ors. versus the State of Rajasthan & Ors.:**

RLW 2005 (1) Raj. held as under:-

"(6). So far as the ground of locus standi is concerned, it may be mentioned that once the complaint is made, the business of the complainant is over. He is no more person to make any interference as the complaint is the subject-matter of enquiry between the party concerned and the Government and no-one has a right to make an interference. The complainant is only an informer and the business has been completed by the appellants, while making complaint against the respondent No. 3 and they have no interest left in the matter to get acquaintance with the further development of the proceedings. Apart from that, the State Government has always inherent jurisdiction to revoke its earlier order in view of the subsequent events taking place in the matter. In this connection, reference of Bharat Kumar v. the State of Rajasthan and Ors. (1), and Mahadev Prasad Yadav v. State of Rajasthan and Ors. (2), may be made."

In the factual backdrop of the aforesaid precedential law, this Court is not inclined to allow the application filed by the applicant-Shri Ram Sharan Singh.

The application is dismissed accordingly.

(MAHENDAR KUMAR GOYAL),J

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RAJASTHAN HIGH COURT



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