

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

**WRIT PETITION NO.5440 OF 2017**  
**ALONG WITH**  
**CIVIL APPLICATION (STAMP) NO.5037 OF 2018**

Pradeep Aadagonda Paraj	.... Petitioner / Applicant
V/s.	
Padmini Nemgonda Patil & Ors.	.... Respondents

Mr. Suresh M. Sabrad for the Petitioner – Applicant.

Mr. Tejpal Shrikant Inglay, a/w. Mr. Nikhil Pawar, for Respondent Nos.3 and 5 to 7.

**CORAM : DR. SHALINI PHANSALKAR-JOSHI, J.**

**DATE : 28<sup>TH</sup> FEBRUARY 2018.**

**P.C. :**

1. Heard Mr. Sabrad, learned counsel for the Petitioner, and Mr. Inglay, learned counsel for Respondent Nos.3 and 5 to 7.

2. By this Writ Petition, filed under Article 227 of the Constitution of India, the Petitioner is challenging the order dated 9<sup>th</sup> December 2016 passed by the Civil Judge, Senior Division, Jaysingpur, below “Exhibit-25” in Regular Darkhast No.76 of 2013.

3. The application at “Exhibit-25” was moved by the Petitioner, as a third party, to add him as party in the execution proceedings.

4. The execution proceedings was in respect of the 'Decree' passed in Regular Civil Suit No.86 of 2012. The said Suit was decreed in favour of the Respondent-Decreeholder and he was held entitled for the specific performance of the contract and as such for execution of the Sale Deed of the suit property in respect of C.T.S. No.1144. The said 'Decree' was challenged upto the High Court and it was confirmed.

5. At this stage, the present Petitioner, who is the son of the Defendant in the said Suit, has made this application before the Executing Court for impleading him as party to the Suit.

6. However, as rightly observed by the Trial Court, absolutely no ground is made out for impleadment of the present Petitioner in the execution proceedings, in which the 'Decree' passed in a Suit, contested right upto this Court by the Petitioner's father, is found to be executed. The Petitioner is equally bound by the said 'Decree', as no independent right or claim is set-up to contest the said 'Decree'.

7. The impugned order passed by the Trial Court, rejecting the Petitioner's application for impleadment, therefore, being just, legal and correct, no interference is warranted therein. The Writ Petition stands dismissed.

8. In view of the dismissal of the Writ Petition, Civil Application (Stamp) No.5037 of 2018 also becomes infructuous and, accordingly, stands dismissed.

9. Needless to state that, a separate Suit, being Regular Civil Suit No.121 of 2014, filed by the Petitioner, claiming partition of the suit property, will be decided by the Trial Court on its own merits.

**[DR. SHALINI PHANSALKAR-JOSHI, J.]**