

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

WRIT PETITION (STAMP) NO.4789 OF 2015

Smt. Usha Kamlesh Shukla

.. Petitioner

Versus

Smt. Meena A. Tiwari

**.. Respondent
(Org. Applicant)**

AND

**The Municipal Corporation of Greater Mumbai
and others**

**...Respondents
(Org. Defendants)**

Shri. Jitendra G. Damani, for the Petitioner.

**Shri. Manojkumar Upadhyay with Shri. Sandip Mahadik, for
Respondent (Original Applicant).**

Ms. Pallavi Thakur, for Respondents No.1 & 2 (Original Defendants).

CORAM : R.M. SAVANT, J.

DATE : 24th FEBRUARY, 2015

PC.

1. The Writ Jurisdiction of this Court is invoked against the order dated 09.02.2015 passed by the Learned Judge of the City Civil Court (Borivali Division), Dindoshi Mumbai by which order Chamber Summons No.7 of 2015 filed by the Applicant came to be allowed and the Applicant was directed to be impleaded as a party Defendant to the suit.

The suit in question being SC Suit No.3000 of 2014 has been filed Petitioner/Plaintiff challenging the notice issued under Section 354A of the Mumbai Municipal Corporation Act. It is alleged against the Plaintiff that she has carried out unauthorized construction in the matter of extending the structure by brick masonry walls and the alleged unauthorized structure is having dimension of 27' X 8' X 18'. In the said suit the instant Chamber Summons came to be filed by the Applicant for her impleadment. The Chamber Summons is founded on the fact that the Applicant is the neighbour of the Plaintiff and that against the unauthorized construction she has complained to the Municipal Corporation of Greater Mumbai as consequence of which the notice under Section 354A came to be issued to the Plaintiff. The Trial Court considered the said Chamber Summons and as indicated above has by the impugned order dated 09.02.2015 allowed the same. The Trial Court has adverted to the fact that the Applicant is the neighbour of the Plaintiff and she is instrumental in issuance of the notice to the Plaintiff under Section 354A as she is pursuing with the Municipal Corporation in respect of the alleged unauthorized construction carried out by the Plaintiff. The Trial Court has also observed that the Applicant has produced various documents to show that she has nexus to the structure in question.

2. It is required to be noted that in paragraphs 7 and 12 of the

plaint, the Plaintiff has made allegations against the Applicant. In my view having regard to the aforestated facts and also having regard to the well settled principles applicable under Order I Rule 10 of the CPC, the Applicant if not a necessary party is a proper party to the suit whose presence would be required for effectual adjudication of the suit. In that view of the matter, the impugned order passed by the Trial allowing the Chamber Summons cannot be found fault with. No case for interference in the Writ Jurisdiction of this Court is made out. The Writ Petition is accordingly dismissed.

[R.M. SAVANT, J]