

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

WRIT PETITION NO.7188 OF 2015

Mr. Mohd. Akram Fate Mohd. and others .. Petitioners

Versus

Bombay Municipal Corporation and another .. Respondents

Mr. M. R. Chouhan, for the Petitioners.

Mr. S. K. Sonawane, for the Respondents.

CORAM : R.M. SAVANT, J.

DATE : 24th NOVEMBER, 2015

PC.

1. The Writ Jurisdiction of this Court is invoked against the order dated 25.03.2015 passed by the Learned Additional Chief Judge of the Small Causes Court, Mumbai, by which order the Petitioners who are the Appellants in the Municipal Appeal No.36 of 2003 have been directed to join the legal heirs of one Casam Sahu as also have been directed to join Shri. Afzal Memon as party Respondents to the said Appeal. The said Appeal arises out of the order dated 16.08.2000 passed by the Dy. Collector and Assessor deleting the names of the Petitioners as lessees from the municipal record in respect of the property in question. The said order dated 16.08.2000 is passed pursuant to the direction which was issued by the City Civil Court by the order dated 01.09.1999, by which

order in terms of clause (3) thereof the Municipal Corporation was directed that before deleting the name of the lessee or the Plaintiff in the assessment record, both the parties should be given an opportunity of hearing. In terms of the said order dated 01.09.1999 hearing was accordingly accorded by the Dy. Assessor and Collector (City) of the Municipal Corporation who passed the order dated 16.08.2000 deleting the name of the lessee from the municipal record. However, in the said order it has been observed that the Applicants are free to apply for insertion of the name of the lessee if it is restored by the Superintendent of Land Records in the pending enquiry in Appeal No.9 of 1998. The said Municipal Appeal No.36 of 2003 as indicated above has been filed against the said order dated 16.08.2000. The Learned Additional Chief Judge of the Small Causes Court, Mumbai has by the impugned order dated 25.03.2015 directed the Petitioners who are the Appellants before him to join the legal heirs of late Casam Sahu as also join Shri. Afzal Memon as party Respondents to the Appeal.

2. The Learned Counsel for the Petitioners Mr. M. R. Chouhan points out that the names of the Petitioners is now entered in the PR cards and therefore, in terms of the directions as contained in the order dated 16.08.2000 the names of the Petitioners should be entered as lessees in the municipal record. It is the submission of the Learned Counsel that it is

not necessary to array the heirs of the erstwhile lessor Shri. Casam Sahu and the present lessor Shri. Afzal Memon to whom the property has been transferred by the original lessor as party Respondents to the Appeal. In my view, it is not possible to accept the said contention urged on behalf of the Petitioners in view of the fact that the order dated 16.08.2000 has been passed after hearing both the sides i.e. lessor and the lessees. If in the interregnum the late Casam Sahu has transferred his interest to the said Shri. Afzal Memon, it is for the Petitioners to demonstrate the same before the Appellate Court as also draw the Appellate Court's attention to the fact that the Petitioners name is entered in the PR card. This Court does not express any opinion in that regard. In that view of the matter, no case for interference in the Writ Jurisdiction of this Court is made out. The Writ Petition is accordingly dismissed.

[R.M. SAVANT, J]