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

**APPEAL FROM ORDER NO. 1013 OF 2015
ALONG WITH
CIVIL APPLICATION NO. 1240 OF 2014
IN
APPEAL FROM ORDER NO. 1013 OF 2015**

Zubin Harbin Jhaveri & Anr.	...Appellant / Orig. Plaintiff
Vs.	
B.M.C. & Ors.	...Respondents/Orig. Defendants
And	
Seema Ajit Jain & Ors.	...Respondents/Orig. Applicants

Mrs. Sonal Jhaveri, Appellant No.2 in person
Mr. A.V. Divate for the MCGM, Respondents

**CORAM : MRS. ROSHAN DALVI, J.
DATED : 27TH AUGUST, 2015**

PC. :

1. Plaintiff No.2 / Appellant No.2 who has appeared on behalf of all the plaintiffs / appellants has challenged the order dated 7th August, 2015 passed in chamber summons taken out by the applicants who are the proposed defendants in the suit. The chamber summons has been allowed upon two essential premise (1) that the applicants' claim that they are in possession of the suit premises (2) that the plaintiffs themselves had brought the applicants on record of the RAD suit filed by them in respect of the suit premises in the Small

AO.1013/2015(1)

Causes Court.

2. Appellant No.2 would contend that the causes of action are different, that the properties are different, that the applicants are not in possession and that they had brought on record the applicants in the suit for entirely different purpose.
3. Whatever that be the merits of the claim of both the parties, the plaintiffs as also the applicants, who would be defendants in the suit, would be considered together on merits to decide the entire dispute between the parties.
4. Hence the order does not call for any interference except that in the operative part of the order in clause 2 the words “**and notice of motion**” may be deleted because the appellant No.2 states that the notice of motion taken out by the plaintiffs has already been disposed off.
5. The appeal as well as the Civil Application are disposed off accordingly.

(ROSHAN DALVI, J.)