

IN THE HIGH COURT OF JUDICATURE AT MUMBAI
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO.11445 OF 2015

Matushree Steel Industries (P) Ltd. ... Petitioner

Vs.

B. Shama Kotian and others ... Respondents

Mr. Ankit Lohia a/w. Ms Sheetal Shah i/b. M/s. Mehta & Girdharlal for
Petitioner.

Mr. Pradeep J. Thorat for Respondent No.1.

CORAM : R. G. KETKAR, J.
DATE : NOVEMBER 26, 2015

P.C. :

Heard Mr. Lohia, learned Counsel for petitioner and Mr. Thorat, learned Counsel for respondent No.1 (contesting respondent). Rule. Rule is made returnable forthwith and by consent of the parties, Petition is taken up for final hearing.

2. By this Petition under Article 227 of the Constitution of India, original defendant No.2 has challenged the judgment and order dated 10.08.2015 passed by the learned Judge, City Civil Court at Bombay in Chamber Summons No.1602 of 2014 in Long Cause Suit No.4255 of 2007. By that order, the learned trial Judge allowed the Chamber Summons taken out by the respondent No.1 – original plaintiff for impleading Municipal Corporation of Greater Mumbai (for short 'Corporation') as party defendant to the Suit. During the course of hearing, it was suggested to Mr. Thorat that the learned trial Judge while allowing the Chamber Summons has not recorded a finding as to whether Corporation is either a necessary party or a proper party. In view of the suggestion, Mr. Thorat submitted that plaintiff-respondent No.1 is consenting for setting aside the impugned order.

3. In view thereof, by consent, Rule is made absolute in the following terms:

a. Impugned order dated 10.08.2015 is quashed and set aside and Chamber Summons No.1602 of 2014 is restored to the file of the trial Court;

b. While deciding the Chamber Summons, the learned trial Judge will record finding whether Corporation is either a necessary or proper party;

c. All contentions of the parties on merits are expressly kept open;

d. The learned trial Judge is requested to decide the Chamber Summons within 2 weeks from the production of the authenticated copy of this order.

(R. G. KETKAR, J.)

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