

IN THE HIGH COURT OF JUDICATURE AT BOMBAY***CIVIL APPELLATE JURISDICTION*****APPEAL FROM ORDER (ST) NO. 27749 OF 2015****ALONGWITH****CIVIL APPLICATION (ST) NO.27750 OF 2015****IN****APPEAL FROM ORDER (ST) NO. 27749 OF 2015****Satyam CHS Ltd.****..... Appellant****VERSUS****Jaywanti Parshuram Mali & Ors.****..... Respondents**

Mr.S.U.Pandey, a/w. Mr.V.S.Pandey, Mr.M.Gawde, Mr.H.D.Joshi for the Appellant.

Mr.Vinayak Patil for Respondent Nos. 1 to 5.

Mr.A.V.Diwate for Respondent No.10 – BMC.

Mr.Vaibhav Pandya for Respondent Nos. 11 and 12.

CORAM : R.D. DHANUKA, J.**DATED : 15th DECEMBER, 2015****P.C.**

By this appeal from order, the appellant has impugned the order passed by the learned trial Judge refusing to grant ad-interim injunction in the Chamber Summons No.718 of 2015 filed by the appellant (original plaintiff) inter alia praying for impleadment of the respondent nos. 11 and 12 herein who claimed to have acquired alleged rights from the original defendants sometimes in the month of December 2014.

2. A perusal of the order passed by the learned trial Judge indicates that the learned trial Judge has refused to grant ad-interim relief merely on the ground that the respondent nos. 11 and 12 herein was not impleaded as parties defendants. In

my view in case of urgency, the learned trial Judge could have considered the grant of ad-interim relief even during the pendency of the final relief of impleadment against respondent nos. 11 and 12 pleaded by the plaintiff in the said chamber summons is concerned. The impugned order dated 8th September, 2015 thereby rejecting the ad-interim relief on this ground is ex-facie erroneous.

3. It is not in dispute that the respondent nos. 11 and 12 to the present appeal from order are claiming certain alleged rights since December 2014 i.e. during the pendency of the suit and the notice of motion filed by the appellant. It is the case of the respondent nos. 11 and 12 that the earlier defendants have not disclosed about the proceedings filed by the appellant herein against them and about the notice of motion for interim relief which was pending before the learned trial Judge.

4. Learned counsel appearing for respondent nos. 11 and 12 have already filed affidavit in reply opposing the grant of chamber summons including their impleadment to the suit. Learned counsel appearing for the parties state that the chamber summons is being placed on board before the learned trial Judge for hearing and final disposal on 12th January, 2016.

5. In my view in the circumstances aforesaid it would be in the interest of justice that the hearing of the chamber summons is preponed to 5th January, 2016. During the pendency of the chamber summons, the respondent nos. 11 and 12 shall not create any third party rights in respect of the suit property. The learned trial Judge is directed to dispose of the chamber summons expeditiously and shall decide the same without being influenced by the prima facie observations made in the impugned order. Appeal from order is disposed of in the aforesaid terms. In

view of disposal of the appeal from order, civil application does not survive and is accordingly disposed of. No order as to costs.

[R.D. DHANUKA, J.]