IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.10903 OF 2014

Ahmed Vazir Parkar **.. Petitioner**
Versus
Union of India and others **.. Respondents**

Mr. R. V. Govilkar a/w Mr. G. S. Pikale, for the Petitioner.
Mr. Charanjeet Chanderpal, for the Respondent Nos.2 & 3.

CORAM : R.M. SAVANT, J.
DATE : 20th AUGUST, 2015

P.C.

1. The Writ Jurisdiction of this Court is invoked against the order dated 16.10.2014 passed by the Learned Judge of the City Civil Court, Greater Mumbai, by which order the Chamber Summons filed on behalf of the Income Tax Department to implead the parties mentioned in the Chamber Summons i.e. Central Bureau of Investigation (Special Task Force), Municipal Corporation of Greater Mumbai, Joint Commissioner of Police (Crime), Mumbai and Dawood Ibrahim Kaskar came to be allowed. The suit in question has been filed by the Petitioner/Plaintiff for the following reliefs :-

> "(a) that this Hon'ble Court be pleased to declare and order that the Plaintiff is the absolute owner of the property

known as 'Parkar Chambers' bearing Municipal Ward No.E-361. C.S. No.9/1104, Byculla Division, Mumbai and situated at 9, Khandya Street, Nagpada, Mumbai-400 008 and more particularly described in Exhibit 'A' hereto;

(b) that this Hon'ble Court be pleased to quash and set aside the order dated 27th November, 2000 passed by the Tax Recovery Officer (Exhibit 'K' hereto) as illegal, null and void and without any effect;”

2. In so far as the order dated 27.11.2000 is concerned, the said order according to the Learned Counsel for the Respondent Nos.2 and 3 is passed under Section 222 of the Income Tax Act. The application i.e. Chamber Summons in question is founded on the fact that following the serial bomb blasts that took place in Mumbai city in the year 1993, information was received from various sources in which it was revealed that there were 23 properties which were held benami when the actual owner was the said Dawood Ibrahim Kaskar. It is further averred that the assessee in fact is the said Dawood Ibrahim Kaskar. The Income Tax Department has assessed the said property in the name of the said Dawood Ibrahim Kaskar and if it is his own property, then he would have to be made a party, without which the suit cannot be proceeded with. The said Chamber Summons was replied to on behalf of the Petitioner. The aforesaid stand which is now taken in the Chamber Summons was not taken in the written statement which was filed in the year 2001 or in the Affidavit of Evidence and that the parties who are now sought to be

impleaded are neither necessary nor proper parties. It is further averred that the property in question has been purchased in the year 1951. The Trial Court considered the said application and as indicated above has by the impugned order dated 16.10.2014 allowed the same. The Trial Court has adverted to the fact that it is the case of the Applicants that after the bomb blast in the year 1993 information was collected by the Investigating Agency from various sources and that the said property has been attached being a property standing in the name of the Plaintiff as benami of the said Dawood Ibrahim Kaskar. The Trial Court has allowed the said application on the ground that since the allegation is that of a benami transaction and since it would be necessary to implead the said parties to decide the said controversy that the said parties are required to be arrayed as Defendants to the suit.

3. The Learned Counsel appearing on behalf of the Petitioner Mr. R. V. Govilkar would submit that in the instant case, the Plaintiff has placed on record the document of the year 1951 by which the property was purchased by the Plaintiff's father. It is his contention that the date of the purchase might be even prior to the birth of the said Dawood Ibrahim Kaskar and therefore, the allegation of the Respondents that the said property is Benami property could not be prima-facie accepted. The Learned Counsel would contend that at the highest the Union of India may

be allowed to lead the evidence of the parties who are sought to be arrayed as Defendants to the suit. The Learned Counsel would lastly submit that the parties who are sought to be arrayed as parties are neither necessary nor proper parties. In my view, having regard to the reasons mentioned in the impugned order and especially the foundation of the application which is based on the information which has been revealed in the investigation which was carried out pursuant to the bomb blasts of the year 1993, the order passed by the Trial Court allowing the Chamber Summons filed by the Income Tax Department cannot be found fault with. The added parties if not necessary are proper parties to the suit whose presence would aid in a proper adjudication of the suit. The reliance placed by the Learned Counsel for the Petitioner on the judgment of the Apex Court reported in ***(1989) 4 SCC 297*** in the matter of ***Life Insurance Corporation of India and another Vs. Gangadhar Vishwanath Ranade (Dead) by LRS***, is misplaced in the facts and circumstances of the present case. Hence, the order passed by the Learned Judge of the City Civil Court cannot be found fault with, no case for interference is therefore made out the Writ Petition is accordingly dismissed.

[R.M. SAVANT, J]