

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO. 845 OF 2015

Shamshulhaq Abdul Gafoor Ansari .. Petitioner
vs.
The Municipal Corporation of
Greater Mumbai and anr. .. Respondents

Mr. N.B. Khan for the Petitioner.
Mrs. Pallavi Thakar for Respondent No.1-BMC.

CORAM : M. S. SONAK, J.
DATE : 15 April, 2015.

P.C. :-

1] This petition challenges the order dated 10 October 2014 made by the City Civil Court, Greater Bombay allowing Chamber Summons No.1934 of 2013 for impleading respondent No.2 as defendant No.2 in the plaint.

2] The learned counsel for the petitioner submitted that in the present case, the respondent No.2 is neither a necessary party nor a proper party. The Respondent No.2 has produced no material on record to indicate in what manner respondent No.2 is concerned with the proceedings in the petitioner's suit. For this reason, the learned counsel for the petitioner submits that the impugned order is without jurisdiction and requires to be interfered with.

3] Having heard the learned counsel for the petitioner and learned counsel for the respondent No.1, in my judgment, there is no reason to interfere with the impugned order. The impugned order makes reference to the circumstances that the respondent No.2 has made several complaints in the matter of alleged unauthorised constructions carried out by the petitioner. In pursuance of such complaint, the respondent No.1 has issued notice under Section 354A of the MMC Act. In such circumstances, the learned City Civil Judge, has held that the presence of respondent No.2 would assist in the effectual and complete adjudication of the issues raised in the suit. Even if, one were to agree with the learned counsel for the petitioner that the respondent No.2 is not a necessary party to the suit, nevertheless, it cannot be said that the respondent No.2 is not even a proper party to the suit. In any case, discretion has been exercised and it cannot be said that the exercise is in any manner arbitrary or perverse. There is no error in making the impugned order.

4] Consequently, this petition is dismissed. There shall be no order as to costs.

(M. S. SONAK, J.)