

FARAD CONTINUATION SHEET
IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.6813/2015

Office Notes, Office Memoranda of Coram, Appearances, court's orders or directions and Registrar's orders	Court's or Judge's orders
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Mr. A. A. Siddiqui i/b. A. A. Siddiqui & Associates
for the petitioner

Mr. B. S. Shukla for the respondent No.1.

CORAM : K. K. TATED, J.

DATE : JULY 12, 2016

P.C.:

1. Heard. By this petition under Article 227 of the Constitution of India, the petitioner challenges order dated 12.02.2015 passed by the Bombay City Civil Court at Mumbai in Chamber Summons No.218/2014 rejecting the application made by the petitioner for joining them as party defendant in L.C.Suit No.1257/2014.

2. In the present proceedings the respondent plaintiff filed LC.Suit No.1257/2014 in Bombay City Civil Court at Mumbai for declaration and injunction under section 34 and 37 of the Specific Relief Act, 1963.

3. It is the contention of the petitioner that the respondent plaintiff carried out unauthorised construction on the drainage line which is affecting their right and interest. Thereafter, the petitioner filed chamber summons for joining them as party in pending suit on the ground that they are also residing in the same locality i.e. Jai Hind Nagar, Mankhurd area where the suit property is situated. Hence, they are necessary party in the suit filed by the respondent plaintiff to assist the Municipal Corporation to take appropriate steps. Hence, the impugned order is liable to be set aside and the plaintiff be directed to join the petitioner / applicant as defendant in L.C.Suit No.1257/2014.

4. On the other hand, the learned counsel for the respondent plaintiff vehemently opposed the Writ Petition. He submits that the petitioner is not necessary party in the suit filed by them. He submits that the plaintiff filed the suit for declaration and injunction u/s.32 and 37 of the Specific Relief Act, 1963. The plaintiff has not claimed any relief against third party except Municipal Corporation. These facts were considered by the trial court. Hence, there is no substance in the Writ Petition. Same be dismissed with costs.

5. It is to be noted that, in the present proceedings the respondent plaintiff filed suit against the Municipal Corporation for injunction restraining them from taking any action against their shop No.19, admeasuring 10' x 45 made of partly B.M. wall and patra sheet wall and A.C.Sheet roof, situated at Bhimwadi, Ghatkopar-Mankhurd Link Road, Govandi Mumbai – 400 043.

6. Bare reading of the plaint shows that the plaintiff claimed the relief against the Municipal Corporation only. Just because the applicant is residing in the same locality, he cannot claim any interest in the present litigation. These facts were considered by the trial court. Considering these facts, I do not find any substance in the Writ Petition. Hence, same stand rejected.

JUDGE