

IN THE HIGH COURT OF JUDICATURE AT BOMBAY***CIVIL APPELLATE JURISDICTION*****CIVIL APPLICATION NO.1545 OF 2015****IN****APPEAL FROM ORDER NO. 815 OF 2015****M/s. Hornby Properties Pvt. Ltd.****..... Applicant/
Internever****IN THE MATTER BETWEEN****M/s.Hornby Properties Pvt. Ltd.****..... Applicant****VERSUS****Kai Pestonhi Nicholson & Ors.****..... Respondents**

Mr.Mayur Khandeparkar, i/b. Mr.Rohan Sonawane for the Appellant.

Mr.P.G.Lad, a/w. Ms.Aparna Murlidharan for MHADA/Respondent nos. 4 to 7.

Mr.Sagar Agarkar for the Applicant in Civil Application No.1545 of 2015.

CORAM : R.D. DHANUKA, J.**DATED : 3rd MARCH, 2016****P.C.**

By this civil application, the applicant who claims to be the tenant association of the Hornby Building seeks intervention/impleadment in this appeal from order. Chamber summons was filed by some of the members of the appellant.

2. Mr.Khandeparkar, learned counsel for the appellant invited my attention to the order dated 9th March, 2015 passed by this court in the Writ Petition (St) No.5612 of 2015 in which the appellant herein had impugned the order passed by the learned trial judge thereby passing an order of impleadment of the applicant herein as party defendant to the suit filed by the appellant herein. The learned trial

judge had allowed the said application for impleadment filed by the applicant herein. This court in the said writ petition had accepted the statement made by the appellant (original plaintiff) and deleted prayer clause (d) of the plaint which according to the applicant in the said chamber summons was causing some prejudice to the applicant. This court after recording the said statement was pleased to set aside order of impleadment passed by the learned trial judge and disposed of the said writ petition.

3. Insofar as applicant in this civil application is concerned, a perusal of the paragraph 11 of the civil application clearly indicates that it is admitted position that some of the members of the applicant had filed the said chamber summons, the order in which passed by the learned trial judge for impleadment of those members of the applicant herein came to be set aside by this court.

4. In my view, the applicant herein are therefore neither necessary nor proper party to this appeal from order. Civil application is accordingly dismissed. No order as to costs.

[R.D. DHANUKA, J.]