

Santosh

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO. 7403 OF 2017

Deepak Nagoji Rane	...Petitioner
<i>Versus</i>	
The Mumbai Municipal Corporations & Anr	..Respondents

Mr SY Amare, *for the Petitioner.*

Mr Pradeep Patil, *for the MCGM/Respondents Nos.1 & 2.*

CORAM: G.S. PATEL, J
DATED: 27th November 2017

PC:-

1. The Plaintiff applied by way of a Chamber Summons for an amendment and also made an application for several other reliefs. It appears that the Chamber Summons also contained prayers for mandatory injunction in prayers (b) and (c) and a prayer in the nature of damages in prayer clause (d). The amendment sought was in prayer clause (a). A copy of the Chamber Summons is at page 217. The amendment itself proposed is at page 250.

2. It appears that before the Trial Court on 22nd August 2016 the Chamber Summons was moved but either only for relief in terms of prayer clauses (b), (c) and (d) or, at any rate, these were the only prayers that were considered. The Chamber Summons was therefore

rejected on that basis. The Petitioner filed an application for review and this was rejected on 29th March 2017 by the Trial Court.

3. The sole grievance now is that the Chamber Summons for amendment ought to have been considered. It does not seem to be established here that the Petitioner pressed the Chamber Summons for amendment; and, at any rate, the amendment application itself received no order. Only the prayers for injunction were decided.

4. Ordinarily, an appeal would lie under Order 43 against the order on the injunctions, but it is canvassed by the Petitioner that his grievance is in respect of the lack of an order on the Chamber Summons; hence this writ petition.

5. Resultantly, I will restore the Chamber Summons to the limited extent of its prayer clause (a) for amendment. Chamber Summons No.1144 of 2016 is restored to file but only in regard to prayer clause (a) for amendment. The Trial Court will decide that Chamber Summons on its merits uninfluenced by any of the previous orders at its earliest convenience. It is made clear that there is absolutely no urgency in the matter.

6. The Writ Petition is disposed of in these terms. No costs.

(G. S. PATEL, J.)