

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

WRIT PETITION NO.1115 OF 2015

Moiz Badrudin Mehta

.. Petitioner

V/s.

Municipal Corporation of Greater Mumbai
& Anr.

.. Respondents

Mr.Pradeep J. Thorat for the Petitioner.

Mr.Niranjan A. Mogre for Respondent No.2.

CORAM : SMT. SADHANA S. JADHAV, J.

DATE : 29th NOVEMBER 2017

P.C.

1. Rule. Rule made returnable forthwith with the consent of the parties.

2. Heard the petitioner herein who happens to be a plaintiff in LC Suit No.169 of 2011 pending before the City Civil Court at Bombay in which the petitioner has challenged the notice issued by the Municipal Corporation of Greater Mumbai under Section 351 of the Mumbai Municipal Corporation Act.

3. The respondents herein had taken out Chamber Summons on 24th August 2011 seeking the liberty to be impleaded

as a party defendant to the suit to give better particulars of the suit property and the issues involved therein. It is pertinent to note that the Chamber Summons was filed on the ground that the petitioner would, under the guise of injunction order blackmail MHADA. Infact there is no notification issued by MHADA to acquire the said property and therefore MHADA is not involved in the said suit.

4. The learned Court by an order dated 11th July 2014 was pleased to allow the said application and directed the plaintiff to implead the respondent as a party defendant to the said suit. It is pertinent to note that the respondents have not assigned any specific reason to be impleaded as a party defendant. The learned Court has also not assigned any reason for granting the said relief in Chamber Summons No.435 of 2011 and the Court has proceeded to allow the application presuming that MHADA is or would be a party defendant to the said suit. Hence, the said order deserves to be quashed and set aside. However, the respondents would be at liberty to file an application seeking impleadment by demonstrating specific reason for seeking the said relief. The learned Court shall decide the said application on its own merits without being influenced by the fact that the order dated 11th July 2014 has been quashed and set aside. With these directions, the petition is allowed

in above terms.

5. Rule is made absolute. Petition stands disposed of. The said application shall be considered only in the eventuality that it is filed on or before 22nd December 2017 and the learned Court after hearing both the sides shall decide the said application within six weeks from the date of the filing.

(SMT. SADHANA S. JADHAV, J.)