

(CHSW 41 of 2014)

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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION

CHAMBER SUMMONS No. 41 OF 2014
IN
WRIT PETITION No. 1097 OF 2014

Happy Home EstatesApplicant/ Intervenor

In the matter between

Sahyadri Co-op. Hsg. Society and Ors.Petitioners

Vs.

The State of Maharashtra and Ors.Respondents

WITH
CHAMBER SUMMONS No. 49 OF 2014
IN
WRIT PETITION No. 1097 OF 2014

Dhananjay V. KawleApplicant/Intervenor

In the matter between

Sahyadri Co-operative Housing Society
(Proposed) and Ors.Petitioners

Vs.

The State of Maharashtra and Ors.Respondents

Mr. Venkatesh Dhond, Senior Counsel i/b. S.A. Sawant a/w. H.V. Kode a/w
Samir M. Suryavanshi for the Petitioners

Mr. Milind More, Additional Government Pleader for Respondent Nos. 1 and 2

Mr. Kamlesh Ghumre a/w. Sonali Sabale for Respondent No.4

Mr. P.M. Shah for the Applicant in CHS No. 41 of 2014 Happy Home Estate

Mr. N.M. Dedhia i/b. M.K. Tanna for Applicant in CHS No. 49 of 2014

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**CORAM : V.M. KANADE &
C.V. BHADANG, JJ**

DATE : APRIL 17, 2017

P.C. :

1. The learned counsel appearing on behalf of the Applicants in both the Chamber Summons viz. Chamber Summons No. 41 of 2014 and Chamber Summons No. 49 of 2014 submits that the Applicants are the proper and necessary parties to the petition since their rights would be affected, if any favourable order is passed in this petition in favour of the Petitioners.

2. On the other hand, Shri Dhond, learned Senior Counsel appearing on behalf of the Petitioners submits that the Applicants initially had filed a writ petition in this Court claiming that they were the owners of the said property. However, the said petition was dismissed and even the SLP filed in the Apex Court against the said order was also dismissed. He submitted that the Apex Court, however, had permitted the Applicants to file a representation to MHADA for the purpose of getting development rights as 'Developers' of the said property. He further submitted that the Applicants then made a representation to MHADA and MHADA was pleased to reject the said representation. He submitted that the Applicants, therefore, have already lost their case before all the forums and, therefore, they have no right to intervene in the present petition.

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3. In our view, there is much substance in the submissions made by Shri Dhond, learned Senior Counsel appearing on behalf of the Petitioners. The Applicants have already lost their case in this Court as well as in the Apex Court. Their claim of ownership has already been rejected. The Applicants also had made a representation to MHADA . The said representation is also rejected. That being the position, we are of the view that the Applicants are not the proper and necessary parties in the present petition. Hence, both the chambers summonses are dismissed, reserving the right of the Applicants to challenge the order passed by MHADA, rejecting their representation for appointing them as 'Developers'. All the contentions are kept open.

[C.V. BHADANG, J.]

[V.M. KANADE, J.]

Vaishali Tikan