

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION
WRIT PETITION No. 11579 of 2017

Arun Narayan Vaidya. ..Petitioner.

$$V_S$$

Shree Sai Welfare Association
through its SecretaryRespondent.

Mr Mohit Jadhav I/by D.R. Prasad Singhg for the petitioner.
Mr Avendra Kumar I/by K.R. Tiwari & Co. for Respondent No.1.
Mr. Santosh Prasad for BMC-Respondent No.2.

CORAM : B.P.COLABAWALLA, J.
DATED :- 4th December, 2018.

P.C. :

1 This writ petition has been filed seeking to challenge the order dated 21st July, 2017 passed by the Bombay City Civil Court at Bombay, Borivali Division, Dindoshi in Chamber Summons No. 921 of 2016 in L.C.Suit No.1801 of 2013. This chamber summons was filed by the petitioner herein seeking to be added as a party defendant to the above suit. This Chamber Summons came to be dismissed by the impugned order. The ground on which the Chamber Summons was dismissed has been set out in Paragraph 6 and 7 of the impugned order. I must mention that in the suit filed before the Trial Court what has been challenged by the original plaintiff is a notice issued by the Mumbai Municipal Corporation under Section 488 of the Mumbai Municipal Corporation Act, 1888. All that this

notice is to call upon the Chairman, Secretary, occupier to keep the original approved set of occupation plans and relevant documents for perusal and inspection. In this suit the original defendant is in no way challenging the title to the property claimed by the petitioner herein.

2 These being the facts of the case and considering that the rights of the petitioner in the property were in no way being adversely affected, I was not inclined to entertain this petition as I found that the petitioner was not a necessary nor a proper party that was required to be added as a party defendant. This being the case, I was prima facie of the view that the impugned order suffers from no perversity requiring my interference under Article 227 of the Constitution of India.

3 Faced with this situation, the learned Advocate appearing on behalf of the petitioner, on instructions of the petitioner who is present in Court seeks leave to withdraw this writ petition. In these circumstances, leave is granted and the writ petition is dismissed as withdrawn. It is made clear that I have not opined on any issue with reference to the title claimed by the petitioner and all contentions of all parties in this regard are expressly kept open to be agitated in separate proceedings, if so filed. No order as to costs.

(B.P. COLABAWALLA, J.)