

IN THE HIGH COURT OF JUDICATURE AT BOMBAY***CIVIL APPELLATE JURISDICTION*****WRIT PETITION NO. 3531 OF 2017****Shahabuddin Mohammad Nazir Khan****..... Petitioner****VERSUS****M/s.Navkar Infra Projects & Ors.****..... Respondents**

Mr.Himanshu Kode for the Petitioner.

Mr.Khuhbu R. Chauria for the Respondent nos.1 and 2.

Mr.R.Y.Sirsikar, a/w. Mr.G.O.Giri for the Respondent no.5/MCGM.

CORAM : R.D. DHANUKA, J.**DATE : 3rd SEPTEMBER, 2018****P.C.**

By this petition filed under Article 227 of the Constitution of India, the petitioner has impugned the order dated 4th May,2016 passed by the learned trial judge dismissing the chamber summons filed by the plaintiff *inter alia* praying for carrying out amendment to the plaint.

2. I have perused the averments made in the chamber summons and the nature of amendment sought by the plaintiff in the chamber summons.

3. A perusal of the order dated 4th May,2016 passed by the learned trial judge clearly indicates that the original prayer in the suit was for injunction restraining the defendants to carry out the construction on the final plot no.477 and directing the Corporation to cancel IOD and not to grant commencement certificate in favour of the society.

However, by way of amendment, the plaintiff seeks relief of possession of flat admeasuring 2054 sq.ft. on the first floor of the building constructed by the defendant nos. 1 to 4 which MOU was admittedly executed between the parties after filing of the suit by the petitioner.

4. The learned trial judge in my view has rightly held that the reliefs sought by way of amendment in the chamber summons would change the cause of action and thus the said amendment was rightly rejected under Order 6 Rule 17 of the Code of Civil Procedure, 1908.

5. I do not find any infirmity in the impugned order passed by the learned trial judge dated 4th May, 2016.

6. Writ petition is devoid of merits and is accordingly dismissed. No order as to costs.

[R.D. DHANUKA, J.]