

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

**CHAMBER SUMMONS NO.1650 OF 2015
IN
SUIT NO.1698 OF 2012
ALONGWITH
NOTICE OF MOTION NO.997 OF 2013
ALONGWITH
NOTICE OF MOTION NO.339 OF 2017**

Dr. Ambedkar Nagar Vikas Society
And Another

... Applicants
(Prop. Defendant Nos.2&3)

In the matter of :

Mr. Mehul Natwarlal Patel
And Others

... Plaintiffs

Versus

Municipal Corporation of
Greater Mumbai

... Defendant

....

Mr. Ashutosh Kaushik I/b Kaushik & Co. for the Applicants in Chamber
Summons No.1650 of 2015.

Mr. Chirag Mody & Rishikesh Soni I/b Ashok Purohit & Co. for the
Plaintiffs.

.....

CORAM : S.C.GUPTE, J.

DATE : 25 OCTOBER 2018

P. C. :

. Heard learned Counsel for the parties.

2 This Chamber Summons is taken out by third party applicants

seeking impleadment to the Suit. The Suit seeks a declaration of title in respect of the suit property.

3 It is the case of the Plaintiffs, who claim to be the owners of the suit property, that the Defendant-corporation has been setting up a rival title to the suit property and accordingly a declaration is sought in the Suit. The present applicants claim in themselves a wholly independent title to the suit property. The cause of action of the third party applicants to seek either declaration of their title or to assail the title sought to be declared by the Plaintiffs as against the Defendant herein, is clearly foreign to the controversy in the present suit. If at all, the third party applicants will have to file their own suit and seek appropriate reliefs in it. In the Plaintiffs' suit, the third party applicants are neither a necessary or a proper party. (The court is informed that the third party applicants have, in fact, filed their own suit seeking declaration of their title to the present suit property.) The third party applicants have no *locus* to contest the present suit. It is not a case where no decree can be passed in the present suit in the absence of the third party applicants. So also, for proper adjudication of the present suit, their presence is not necessary or even advisable. In fact, their presence would embarrass the trial of the suit.

4 Accordingly, there is no merit in the chamber summons. The Chamber Summons is dismissed. No order as to costs.

(S.C. GUPTE, J.)