

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

WRIT PETITION NO.3495 OF 2022

Smt. Swapnal Satish Savkar and Anr.

..Petitioners

Versus

The Municipal Corporation of Greater Mumbai
and Ors.

..Respondents

Ms. Swati D. Sawant, for the Petitioners.

Mr. Santosh Parad, for Respondent No.1/MMC.

Mr. Yadvendra Tiwari i/by Satyam R. Dubey, for the Respondent
Nos.3 & 4.

CORAM : NITIN W. SAMBRE, J.

DATE : 28th MARCH, 2022

PC.

1. Heard.

2. The submissions of counsel for the petitioners are, the Court below has committed an error in granting Chamber Summons No.92 of 2022, thereby permitting impleadment of respondent Nos.3 and 4 as party defendants to the suit being alleged owners of the suit property. She would claim that suit claim can be decided in the absence of the respondents and even otherwise the title of the respondents is under cloud.

3. Counsel for respondent Nos.3 and 4 submits that respondent Nos.3 and 4 are necessary or appropriate party to the

suit as structure is owned by them. According to them, structure is in dilapidated condition and that being so, it is necessary to demolish the same, for which the Corporation since has failed to take steps, impleadment is sought and granted.

4. Appreciated submissions.

5. The suit is against the Corporation questioning notice of demolition.

6. Whether the respondent Nos.3 and 4 have title to the suit property, cannot be an issue which can be looked into at this stage particularly when the suit claim, in my opinion, can be decided in absence of respondent Nos.3 and 4, as they are neither necessary nor appropriate party. The suit primarily initiated on the notice issued by the respondent No.1/Corporation whereby demolition of structure is sought.

7. In that view of the matter, in my opinion, the Court below committed an error in granting prayer for impleadment.

8. That being so, order impugned dated 8th March, 2022 passed on Chamber Summons No.92 of 2022 in LC Suit No.406 of 2022 is hereby quashed and set aside. The said chamber summons stands rejected.

9. The petition stands allowed in above terms.

10. It is ordered that the suit proceedings shall remain stayed for a period of four weeks from today as the respondent Nos.3 and 4 intend to challenge this order before the Apex Court.

[NITIN W. SAMBRE, J.]