

K.S. Jadhav

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 10071 OF 2022

Mumbai Suvarnakar Sangh

...Petitioner
(Original Applicant)

Versus

Dr. Neguib Yahya Kachwalla & Anr.

...Respondents
(Original Defendants)

Mr. J.M. D'Silva and Mr. Vinay Bandiwdekar i/b Jacqueline D'Silva, Advocate for the Petitioner.

Mr. Ruchin Tolat i/b L.C. Tolat & Co., Advocate for Respondents.

CORAM : R.I. CHAGLA, J.

DATE : 2nd December, 2022.

ORDER :

1. Heard the learned Counsel for the parties.
2. By this Writ Petition, the Petitioner is seeking quashing and setting aside of the impugned Judgment and Order dated 14th March, 2022. By the said impugned Judgment and Order, the Court of Small Causes at Mumbai, has rejected the Application Exhibit-15 filed by the third party Applicant. The

impugned Judgment and Order as in Paragraph 15 considered that the Plaintiff is ‘*dominus litus*’ and entitled to to choose the parties who are necessary to the reliefs claimed by him. The Plaintiff may choose to implead only those persons against whom he wishes to proceed. Accordingly, the Application Exhibit-15 was rejected.

3. I find no infirmity in impugned Judgment and Order dated 14th March, 2022. It is for the Plaintiff to determine which parties are to be proceeded against as Defendants in the suit. It is for the third party Applicant who are the Petitioners herein to file their independent proceedings for claiming to be deemed tenant in respect of the suit premises allegedly acquired by them from the then landlord and in possession prior to 1965. Thus, this Writ Petition is dismissed by keeping the remedy of the Petitioners open for filing appropriate proceedings.

[R.I. CHAGLA, J.]