

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

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WRIT PETITION NO.7059 OF 2018

Umarkhadi Arunodaya Co-operative
Housing Society Ltd.

..Petitioner

Versus

Sunil Ramdas Mhatre and Anr.

..Respondents

Smt. Nilima V. Sanglikar, for the Petitioner.
None for the Respondents.

CORAM : NITIN W. SAMBRE, J.

DATE : 6th APRIL, 2022

PC.

1. Heard.

2. None appears for the respondent/plaintiff.

3. LC Suit No.1441 of 2013 is initiated by the respondent questioning notice dated 16th January, 2013, which was issued in response to the complaint preferred by the petitioner. The petitioner as such sought impleadment through Chamber Summons No.602 of 2016, which is rejected vide order impugned dated 9th February 2018. The ground of rejection was, an earlier similar attempt on the part of the petitioner was not pressed, as such same will against the interest of the petitioner.

4. Pleadings in paragraph 9 of the plaint reads thus :-

“9. The Plaintiff further says that one Mr. Umakant Kolte

resident of Room No.218, 2nd floor, Arunodaya CHS Ltd., Umerkhadi, Ganesh Chowk, Mumbai-400 009 has lodged certain bogus complaint with the Defendants upon the refusal of payment of desired extortion amount by the Plaintiff and the other devotees of Lord Ganesha residing in the same vicinity. The Plaintiff says that the said Complainant is habitual complainant and is modus operandi is to lodge the bogus complaint with the Defendants and thereafter to extract money from the concern parties. The Plaintiff further says that if the concern parties bow before him and pays him the demanded amount the said Complainant usually withdraws his complaint and if not paid the said Complainant goes on pursuing his complaint with the Defendants.”

5. Apparently, it can be inferred that the suit claim is based on the ground of *mala fides* alleged against the petitioner and also the notice dated 16th January, 2013, which appears to have been issued on the complaint of the petitioner.

6. That being so, it appears that the petitioner is an appropriate party to the proceedings. In so far as earlier Notice of Motion No.3365 of 2013 is concerned, same appears to be not pressed as same was not maintainable.

7. In the aforesaid background, the order passed in Chamber Summons No.602 of 2016 on 9th February, 2018 is hereby quashed and set aside. Accordingly, Chamber Summons stands allowed.

8. The petition as such stands disposed of in above terms.

[NITIN W. SAMBRE, J.]