

IN THE HIGH COURT OF JUDICATURE AT BOMBAY**CIVIL APPELLATE JURISDICTION****WRIT PETITION NO. 11238 OF 2017**

Om Prakash Singh Bachhansingh

.. Petitioner

Versus

Municipal Corporation of Gr. Mumbai and Anr.

.. Respondents

.....

- Mr. Dinesh C. Shah for Petitioner
- Mr. Om Suryawanshi for Respondent No.1
- Mr. Nirpa Tiruwa, Secretary of Society in person.

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CORAM : MILIND N. JADHAV, J.**DATE : DECEMBER 07, 2022.****P.C.:**

1. Heard Mr. Shah, learned Advocate for Petitioner and Mr. Suryawanshi, learned Advocate for Respondent No.1.

2. Perused the impugned order dated 08.09.2016 passed by the learned Trial Court in Chamber Summons No. 879 of 2015 in L.C. Suit No. 2181 of 2012.

3. Mr. Shah has made a grievance that the statement recorded in paragraph No. 2 of the impugned order is incorrect and as an officer of the Court representing the Plaintiff before the said Court, he did not make such a statement. He submitted that on the contrary, it was his endeavor to make his submissions / arguments afresh before the learned Civil Judge for consideration of the Chamber Summons.

4. Record indicates that the original Chamber Summons No.879 of 2015 in which the impugned order has been passed has been filed by the Adarsh Nagar Rahivasi Sangh, a registered Society under the Societies Act seeking impleadment. Mr. Shah representing the Plaintiff - Om Prakash Singh Bachhansingh is the occupier of a disputed suit structure admeasuring 13 X 10.6 feet which is situated on the suit plot namely City Survey No.387 (pt) at Adarsh Nagar Military Road, Marol, Andheri (East), Mumbai. Mr. Shah submitted that his objections were required to be considered by the learned Civil Judge before allowing the said chamber summons. Admittedly he did not make his submissions though he wanted to submit.

5. Mr. Nirpa Tiruwa representing the Adarsh Rahivasi Sangh in the capacity of secretary is present in person. The Sangh / society has not appointed any Advocate. Mr. Tiruwa submitted that he shall submit to the order of the Court.

6. In view of the fact that the objections of Mr. Shah have not been considered by the Civil Judge in the order dated 08.09.2016, the said order is quashed and set aside.

7. Chamber summons No.879 of 2015 shall be heard afresh by the learned Civil Judge by giving an opportunity to all parties to make their submissions.

8. Mr. Shah assures the Court that he shall make his submissions / arguments /objections on the date when the said chamber summons

will be heard.

9. It is requested to the Civil Judge to hear and dispose of the Chamber Summons within a period of four weeks from today.

10. Parties are directed to appear before the learned Civil Judge on **13th December, 2022** at 12.00 noon.

11. In view of the above, Writ Petition stands disposed of.

[MILIND N. JADHAV, J.]

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