

Sharayu Khot.

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

INTERIM APPLICATION NO. 3927 OF 2022

IN

SUIT NO. 147 OF 2017

Crescent Exotica Co-op.Housing Society Ltd.

...Intervener/
Applicant

In the matter between

Mrs. Lourdes Veronica Baptista

...Plaintiff

Versus

M/s. Crescent Builders and Developers and Ors.

...Defendants

Mr. Mohit Jadhav a/w Ms. Megha Shigavan for the Intervenor/Applicant.

Mr. Rohaan Cama a/w Mr. Shanay Shah i/by Ms. Dione Baptista for the Plaintiff.

Mr. Mutahhar Khan i/by Shrayas Vyas for the Defendant Nos. 1 and 2.

Mr. Yash Tiwari i/by K.P. Tiwari & Co for the Respondents No. 3 to 5.

Mr. A.J. Almeida for the Defendant No. 7.

Mr. Shyam Kapadia a/w Ms. Arya Bile and Mr. Vivek Sharma i/by Solomon & Co. for the Defendant No. 8

Mr. Himanshu B. Takke, AGP for the Defendant No. 9-State of Maharashtra.

Ms. Yamuna Parekh for the Defendant No. 10-MCGM.

Mr. S. Shamim i/by S. Shamim for the Defendant Nos. 11 and 12.

Mrs. Rekha Rane, 2nd Asstt. to C.R. present.

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CORAM : R.I. CHAGLA J

DATE : 26 September 2022

ORDER :

1. Heard learned Counsel for the parties.
2. By this Interim Application, the Applicant is seeking direction against the Plaintiff to add/implead the Applicant/Intervener as party Defendant No. 13 to the present Suit and for amendment of the cause title of Plaint, Interim Application with necessary consequential amendments.
3. Further relief is sought for direction against the Plaintiff and Defendant Nos. 1 to 8, 11 and 12 to pay their respective proportionate share towards the outstanding maintenance, in respect of flat mentioned in prayer clause (b) which is stated to be due and payable to the Applicant/Society within the stipulated time as this Court deems fit.
4. The learned Counsel for the Applicant has pressed prayer clause (a). He states that insofar as prayer clause (b) is

concerned, liberty be granted to the Applicant to file proceedings in the appropriate Court for such relief.

5. Mr. Rohaan Cama, learned Counsel for the Plaintiff is agreeable to prayer clause (a) being granted by joining the Applicant/Intervener-Society as Defendant No. 13 in the caption Suit. He has submitted that this is without prejudice to the rights and contentions of the Plaintiff that the Applicant is not a necessary party. Further, the other issues of legality formation of the Applicant be kept open. He has submitted that there are other proceedings in respect of the subject property and that by consenting to join the Applicant in the present Suit, it should not be construed as having consented to join the Applicant in the other proceedings.

6. Considering that there is no objection to prayer clause (a) of the Interim Application being granted, subject to aforementioned clarification sought, the same is required to be granted. Hence, the following order is passed.

- (i) The Plaintiff shall join the Applicant/Intervener as party Defendant No. 13 to the present Suit and for which

necessary amendment to the cause title of the Suit Plaintiff and Interim Application along with other consequential amendments shall be carried out within a period of two weeks from the date of this order.

- (ii) Re-verification is dispensed with.
- (iii) It is clarified that this shall be without prejudice to the rights and contentions of the Plaintiff that the Applicant is not a necessary party. Further, the issues raised by the Plaintiff insofar as the formation of the Applicant-Society is concerned as well as other issues concerning the Applicant-Society are kept open.
- (iv) It is clarified that the joining of the Applicant/Intervener as party Defendant No. 13 to the present Suit shall not be construed, as consent to join the Applicant-Society in other proceedings where the suit property is concerned.
- (v) The Plaintiff is at liberty to file appropriate proceedings pursuing relief in terms of prayer clause (b) of the Interim

Application in the appropriate Court.

(vi) Interim Application is disposed of in the above terms.

[R.I. CHAGLA J.]