

Sayali Upasani

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

**APPEAL FROM ORDER NO.121 OF 2023
WITH
INTERIM APPLICATION NO. 1559 OF 2023**

Mr. Suresh Chellappan Nair ...Appellant

Vs.

Intergrated Bhoomi Co. O. Hsg. Soc. Ltd. ...Respondent

Mr. Ashok Saraogi, for Appellant.

Mr. K. Mishra, for Respondent.

CORAM:- N. J. JAMADAR, J.

DATED:- 28th JUNE, 2023

PC:-

- 1) Heard the learned Counsel for the parties.
- 2) The challenge in this Appeal is to an order dated 15th December, 2022, passed by the learned Judge, City Civil Court, in Notice of Motion No. 1043 of 2021 in S. C. Suit No. 618 of 2021, whereby the Notice of Motion taken out by the appellant-plaintiff to restrain the defendant-Society from causing obstruction to the plaintiff's possession over Unit No. 102, at First Floor of A-Wing, situated at Intergrated Bhoomi Co-

operative Hsg. Soc. Ltd. Ghatkopar West, Mumbai (“suit premises”), came to be rejected.

3) One of the reasons which weighed with the learned Judge to reject the Notice of Motion was non-impleadment of the purchaser and builder.

4) The learned Counsel for the appellant submitted that the plaintiff had already taken out Chamber Summons No. 954 of 2021, seeking impleadment of those persons as party defendant to the suit. However, the said Chamber Summons was not decided before considering the Notice of Motion.

5) As against this, the learned Counsel for the respondent-defendant submitted that in fact the plaintiff had not pressed the said Chamber Summons and has taken out another Chamber Summons, which is awaiting adjudication.

6) In view of the aforesaid development, in the intervening period, the Chamber Summons taken out by the plaintiff be decided by the learned Judge, City Civil Court, as expeditiously as possible, on its own merits and in accordance with law.

7) Depending upon the outcome of the Chamber Summons, the plaintiff is at liberty to revive the prayer for interim relief as permissible in law.

- 8) The Appeal stands disposed.
- 9) In view of the disposal of the Appeal, the Interim Application also stands disposed.

[N. J. JAMADAR, J.]