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

WRIT PETITION NO. 8602 OF 2022

Tahir Nazir Shaikh

... Petitioner

vs.

Mumbai Housing and Area Development
Board and Ors

... Respondents

Mr. Rajesh Kachare a/w. Mr. Santosh Suryawanshi for the
Petitioner.

Mr. Akshay Shinde for Respondent nos. 1 and 2.

Mr. Santosh Parad for Respondent no. 3 – MCGM.

CORAM : SANDEEP V. MARNE, J.

DATED : 21 FEBRUARY, 2023

P.C. :-

1. By this Petition, the Petitioner challenges order dated July 15, 2022 passed by the Adhoc City Civil Judge, Borivali, Div. Dindoshi in Chamber Summons No. 664 of 2022 in S.C.Suit No. 52 of 2022. By that Chamber Summons the Petitioner had sought impleadment of Municipal Corporation of Greater Mumbai as a necessary party under Order 1 Rule 10 of the Civil Procedure Code.

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2. The Petitioner claims to be an occupant in respect of a structure. He apprehends dispossession / demolition both at the hands of MCGM as well as MHADA. Petitioner has already instituted L.C. Suit No. 2419 of 2018 seeking protection against MCGM against dispossession/demolition. The Petitioner has also filed a S.C. Suit No. 52 of 2022 against MHADA seeking similar protection.

3. On account of Affidavit filed by MCGM in L.C. Suit No. 2419 of 2018 claiming ownership of land on which Petitioner's structure is located, he moved an application in S.C. Suit No. 52 of 2022 for impleadment of MCGM as party Defendant . That application has been rejected by order dated July 15, 2022 which is subject matter of challenge in the present case.

4. There appears to be some issue about the exact location and identity of the structure in respect of which the Petitioner claims rights. However learned counsel for the Petitioner submits that the Petitioner is claiming right only in respect of one structure and is apprehending action in respect of that one structure both by MCGM and MHADA.

5. In the light of this position and considering the fact that

both L.C. Suit No. 2419 of 2018 and S.C. Suit No. 52 of 2022 are pending before the same City Civil Court, it would be appropriate that both suits are heard together by the same court rather than permitting impleadment of MCGM as party Defendant to S.C. Suit No. 52 of 2022. Accordingly I proceed to pass following order :

- (i) Order dated July 15, 2022 passed in Chamber Summons No. 664 of 2022 in S.C.Suit No. 52 of 2022 is upheld.
- (ii) L.C. Suit No. 2419 of 2018 and S.C. Suit No. 52 of 2022 shall be clubbed together and shall be tried and decided by the same court.
- (iii) Accordingly L.C. Suit No. 2419 of 2018 shall stand transferred to Adhoc City Civil Judge, Borivali, Div. Dindoshi for the purpose of its clubbing with S.C. Suit No. 52 of 2022.
- (iv) The petitioner shall be at liberty to press his application for interim injunction filed in S.C. Suit No. 52 of 2022. Writ Petition is disposed of. No costs.

(SANDEEP V. MARNE, J.)