

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

WRIT PETITION NO.11190 OF 2022

Ms. Veena Dewan & Anr. Petitioners

Vs.

Shiv Timber Mart & Ply and Ors. Respondents

Mr. Dilip Aras for the Petitioners.

Mr. V. R. Kasle a/w. Mr. Tushar R. Momaiyah for Respondent No.1.

Mr. R. Y. Sirsikar for Respondent Nos.2 and 3-MCGM.

CORAM : SHARMILA U. DESHMUKH, J.

DATE : 7 JULY 2023.

P. C.

1. Heard.

2. The challenge in the petition is to the order dated 29/6/2022 passed in Chamber Summons No.542/2021 rejecting the petitioners application for impleadment as a party in Suit No.474/2020.

3. Suit No.474/2020 was instituted by respondent No.1 against respondent Nos. 2 and 3- Municipal Corporation, Greater Bombay challenging the notice issued under section 351 of the MMC Act. Notice was issued in respect of structure being Shop

No.6A. There is no dispute that respondent No.1 is the owner of the shop.

4. Heard learned counsel Mr. Dilip Aras for the petitioners, Mr. V. R. Kasle for Respondent No.1 and Mr. R. Y. Sirsikar for Respondent Nos.2 and 3-MCGM.

5. Learned counsel appearing for the petitioners submits that his premises is situated behind the premises of respondent No.1 and he had learnt that there was tampering with the records by reason of which the area of the petitioners was added to the area of his premises and as such there was increase in the maintenance amount. He would further submit that he has interest in the outcome of the proceedings inasmuch as structure of respondent No.1 obstructs the ingress and egress to his premises.

6. Considered the submissions.

7. The suit has been instituted by respondent No.1 challenging the notice issued under section 351 of the MMC Act. In the proceedings what will be considered is the validity of the

notice under section 351 of the MMC Act. Admittedly, the petitioner is not the owner of the property in respect of which suit notice has been issued and has no direct and substantial interest in the suit property. As regards the grievance as to ingress and egress and the increase in the maintenance, the same cannot form the matter of adjudication in the suit seeking to challenge the notice of demolition. As such impleadment of the petitioner would expand the scope of the proceedings. That apart from the fact that the petitioner is neither a necessary nor proper party to the proceedings. In that view of the matter there is no infirmity in the order of trial Court rejecting the petitioner's application.

8. The writ petition is devoid of merits stands dismissed.

SHARMILA U. DESHMUKH, J.