

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.8690 OF 2018

WITH

WRIT PETITION NO.8702 OF 2018

Kitabullah Khan

...Petitioner

Versus

The Mumbai Municipal Corporation of Greater
Mumbai and Another

..Respondents

WITH

WRIT PETITION NO.8695 OF 2018

WITH

WRIT PETITION NO.8715 OF 2018

Mr. Matin Ahmed Abdul Majid Khan and Another

...Petitioners

Versus

The Mumbai Municipal Corporation of
Greater Mumbai and Another

..Respondents

WITH

WRIT PETITION NO.8699 OF 2018

WITH

WRIT PETITION NO.8696 OF 2018

Mr. Jalaluddin Hukumullah Shaikh

...Petitioner

Versus

The Mumbai Municipal Corporation of
Greater Mumbai and Another

..Respondents

WITH

WRIT PETITION NO.8701 OF 2018

Abdullah Kitabullah Khan

...Petitioner

Versus

The Mumbai Municipal Corporation of
Greater Mumbai and Another

..Respondents

WITH
WRIT PETITION NO.13879 OF 2018

Mr. Mohd. Muzzamil Matin Ahmed Khan

...Petitioner

Versus

The Mumbai Municipal Corporation of
Greater Mumbai and Another

..Respondents

Mr. Mohit Jadhav a/w Ms. Megha Shigavan for the Petitioners in all the Writ Petitions.

Mr. Rishab Jain i/b. MDP and Partners for Respondent No.2.

Ms. Uma Palsudesai for Respondent No.1-MCGM.

Coram : Sharmila U. Deshmukh, J.

Date : 17th July , 2023.

P. C. :

1. These group of Petitions raise common issues and as such are heard together and disposed of by this common order. The controversy lies in a narrow compass as to impleadment of third party under the provisions of Order I Rule 10 of the Code of Civil Procedure (for short, "CPC") in proceedings challenging the validity of notice issued by the Mumbai Municipal Corporation under Section 351 of the Mumbai Municipal Corporation Act, 1888 ("MMC Act"). There has been considerable debate, with both parties citing various decisions of the Apex Court as well as of this Court for and against the proposition that in a suit challenging the validity of Section 351 notice issued under the MMC Act, the owner is a necessary party. For sake of

convenience the Petitioners are referred to as Plaintiffs and the Respondent No 2 is referred to as Applicants.

2. The factual matrix is common that the Plaintiffs claims to be owners of the land on which the notice structure has been erected. The case of the Plaintiffs is that in the year 1995 one Haji Taiyeb Haji Tar Mohamed and others as the Vendors and Haji Zainuddin Hukumallah and others (who are the plaintiffs) purchased the land where the notice structure was situated alongwith the structures standing thereon total admeasuring 1460 square yards by Registered Deed of Conveyance dated 16th September, 1995. The Index-II reflects the name of the Plaintiffs. For the purpose of claiming ownership apart from the Index-II which has been issued by the Sub Registrar, the plaintiffs seeks to place reliance on the 7/12 extract in respect of the land where the suit structure is situated and the copy of electricity bill issued in respect of the suit structure. The plaint proceeds to narrate that in the month of January 2018 a show cause notice was received under Section 351 of the MMC Act alleging that the plaintiffs had unauthorisedly constructed the suit structure, which came to be replied by the plaintiffs stating that an application is pending before the Mumbai Municipal Corporation ("Corporation" for regularising the suit structure. As the Corporation passed an order of demolition in

respect of the suit structure the same came to be challenged before the City Civil Court seeking declaration that the notice issued on 31st January, 2018 and the order dated 27th April, 2018 are illegal and bad in law and for an order of perpetual injunction restraining the Corporation from enforcing the order.

3. In these proceedings an application came to be filed by the Applicant seeking to be impleaded as party to the proceedings. The application contends that the Applicant is the lawful owner of the land bearing Survey No.67, Tikka No.23 and 33 now bearing CTS No.723 admeasuring 1460 square yards situated at Village Nahur, Taluka Kurla, District Mumbai. The application contends that the suit land was purchased by the erstwhile owners Haji Taiyeb and others under an agreement dated 4th September, 1968 and the erstwhile owners- Haji Taiyeb and others by an Agreement for Sale dated 1st July, 1980 sold the suit land to one Mohamed Ayub Mehmood Khan. It is contended that since the Agreement for Sale was not registered, the Deed of Confirmation was executed on 6th April, 1995 by Mohamed Ayub Mehmood Khan and by an Indenture of Conveyance dated 12th December, 2005 executed by the Applicant with erstwhile owners Haji Taiyeb and others with Mohamed Ayub Mehmood Khan being the confirming party the suit land was conveyed to the

Applicant. It is further contended that the Applicant came to know that the purported owners have got the purported Deed of Conveyance dated 18th September, 1995 by erstwhile owners that is Haji Taiyeb and others in their favour and the same was registered and subsequently the mutation entry No.978 was effected on 3rd October, 2003 recording the names of the purported owners as Kabjedars. The Applicant contends that the Deed of Conveyance dated 18th September, 1995 was forged and fabricated document. The application then narrates the revenue proceedings which were adopted by the Applicant which was carried right upto the Revenue Minister who by order dated 31st December, 2015 confirmed the order of the learned Additional Commissioner setting aside the mutation entry. It was contended that as of date the name of the Applicant is recorded as Kabjedar in respect of the land now bearing CTS No.723 situated at Village Nahur, District Mumbai. The application contends that the order of the Hon'ble Revenue Minister is pending for adjudication before this Court by way of Writ Petition in which no orders have been passed. The Applicant contends that in view of the above narration the Applicant is the true owner and landlord of the suit land and is in actual physical possession of the land since the year 2005 and being so is a necessary party and is required to be impleaded as such. Pertinently there is no averment in the application claiming

ownership of the structures erected on the said land. The application describes the subject land as land bearing Survey No 67, Tikka No 23 and 33 now bearing CTS No 723 admeasuring about 1460 square yards i.e. 1220.72 sq mts situated at Village Nahur, Taluka-Kulra, District-Mumbai and claims ownership of the subject land and not the structures erected thereon. This aspect is pertinent in view of the decision of the Apex Court in the case of ***Ramesh Hirachand Kundanmal vs Municipal Corporation of Greater Bombay and Others***¹ to which reference is made in this order later on.

4. It appears that no written reply was filed to the application seeking impleadment and oral arguments were advanced. The trial Court by the impugned order directed the plaintiffs to add the Applicants as defendant to the proceedings giving rise to the present Petition.

5. Heard Mr. Mohit Jadhav for the Petitioners, Ms. Uma Palsudesai for Respondent No.1 and Mr. Dharam Jumanani for Respondent No.2.

6. Mr. Jadhav, learned counsel for the Petitioners would contend that no relief is sought in the plaint against the Applicant. He would further contend that the suit structure is a shop which is

¹ (1992) 2 SCC 524

constructed on CTS No.723 which is the notice structure and as such in the suit, the only adjudication will be regards the authorisation of the structure. He has further invited the attention of this Court to the Deed of Conveyance dated 16th September, 1995 executed between the erstwhile owners Haji Taiyeb Haji Tar Mohamed and others with the present plaintiffs and would contend that by the Deed of Conveyance the land bearing Survey No.67 (part) and CTS No.723 of Village Nahur admeasuring 1460 square yards along with the structure was conveyed to the plaintiffs. He would further point out that an affidavit dated 7th October, 1995 was executed by the erstwhile owners for the purpose of confirming the Deed of Conveyance dated 16th September, 1995. As regards the Agreement for Sale dated 1st July, 1980 which is said to be executed between the erstwhile owners and Mohamed Ayub Mehmood Khan, he would contend that the Agreement for Sale was executed on 1st July, 1980 and there was no Sale Deed. He would further contend that the Deed of Cancellation which is annexed at page 65 of the Petition purported to have been executed on 4th April, 1997 is not signed by the Plaintiffs. He has invited the attention of this Court to the revenue proceedings and would contend that the application for mutation filed by the Respondent No.2's predecessor in title- Mohamed Ayub Mehmood Khan was rejected by the Tehsildar. He would further contend that the

plaintiffs claim to be the owners of the property on which the notice structure is situated and as such the Applicants have a remedy by way of an independent suit to establish their title and the Applicants are not necessary or proper party as their rights have not yet been determined in the suit property. In support of his contentions he relied upon the decisions in the case of ***Aliji Momonji and Company vs. Lalji Mavji and others***² and ***Deju Somaya Salian Vs. The Municipal Corporation of Greater Mumbai and others***³.

7. *Per contra*, Mr. Juman, learned counsel for the Applicant points out that the property in question was purchased by the Applicant in the year 2005 from one Mohamed Ayub Mehmood Khan in whose favour an Agreement for Sale was executed by the erstwhile owners on 1st July, 1980 and the same is supported by a Deed of Confirmation dated 6th April, 1995. He would contend that by a registered Sale Deed dated 12th December, 2005 the suit land was conveyed to the present Applicant. He would further contend that the plaintiffs do not have any right, title or interest in the suit property in view of the Deed of Cancellation dated 4th April, 1997. He would further contend that there are four orders of the revenue authorities in favour of the Applicant and considering the presumptive value of

2 (1996) 5 SCC 379

3 Writ Petition No.7123 of 2018

revenue entries it cannot be said that the Applicant is a stranger to the property. He would further submit that the notice structure is in the nature of an illegal construction erected on the Applicant's land and as such the Applicant will be directly affected by the outcome of the proceedings. He has invited the attention of this Court to the findings in paragraph 5 of the impugned order as regards *prima facie* case of ownership of the suit property. He would further submit that the view of the trial Court being a possible view no interference under Article 227 of the Constitution of India is warranted. In support of his submissions he relied upon the following decisions :-

(1) ***Aliji Momonji and Company*** (supra).

(2) ***Johnson John vs. The Municipal Corporation of Greater Mumbai and anr.***⁴

(3) ***Arun R. Singh & Anr. vs. Municipal Corporation of Greater Mumbai & Ors.***⁵

(4) ***M/s. Dunhill Dome Co-op. Hsg. Society Ltd. vs. Manuel Mergulhao & Ors.***⁶

(5) ***Madhukar Dadu Nigde vs. Shamrao Dadu Nigde & Ors.***⁷

(6) ***Garment Craft vs. Prakash Chand Goel***⁸

8. Before advertng to the facts of the case it would be beneficial to reproduce the provisions of Rule 10(2) of Order I of CPC which reads thus :-

"10(2) Court may strike out or add parties.- The Court may at any stage of the proceedings, either upon or without the application of either party, and on such terms as may appear to

4 Writ Petition No.1083 of 2018

5 Writ Petition No.14207 of 2018

6 Writ Petition (Stamp) No.93200 of 2020

7 Writ Petition No.7001 of 2023

8 (2022) 4 SCC 181

the Court to be just, order that the name of any party improperly joined, whether as plaintiff or defendant, be struck out, and that the name of any person who ought to have been joined, whether as plaintiff or defendant, or whose presence before the Court may be necessary in order to enable the Court effectually and completely to adjudicate upon and settle all the questions involved in the suit, be added."

9. A plain reading of the above provision indicates that the Court may at any stage of the proceedings strike out or add parties who ought to have been joined, whether as plaintiff or defendant or whose presence before the Court may be necessary in order to enable the Court effectually and completely to adjudicate upon and settle all the questions involved in the suit. It is well settled by catena of decisions that a necessary party is the one without whom no order can be made effectively and proper party is one in whose absence an effective order can be made but whose presence is necessary for a complete and final decision on the question involved in the proceedings.

10. The question arising in the present case is a vexed question arising frequently whenever notices issued by the planning authorities are challenged by the occupier of the premises. In these cases invariably the admitted owner or party claiming ownership seeks to intervene. There are various decisions of the Apex Court as well as this Court dealing with the said issue some of which are cited in the present matter.

11. Before considering the decisions cited, it will be necessary to take a relook at the case which has been put forward in the trial Court. The plaintiffs have come with the case that pursuant to a registered Deed of Conveyance dated 16th September, 1995 the plaintiffs are the owners of the property and the notice structure is situated on the said property. On the other hand in the application seeking impleadment the Applicant claims that in the year 2005 the Applicant had entered into a Deed of Conveyance whereby the subject land was conveyed to the Applicant, the subject land in this case being the land bearing CTS No.723 situated at Village Nahur, District Mumbai and there is no averment as regarding the ownership of the structures situated on the subject land. From the above factual narration discernible from the material on record, it is evident that there is a dispute as far as the ownership of the subject land is concerned, which has not been adjudicated by any Court and at least as of today the plaintiffs as well as the Applicants claim ownership of the subject land based on their respective Deeds of Conveyance stated to have been executed by the erstwhile owners in their favour. The fact remains that the notice has been issued by the Corporation to the owner/occupier in respect of an unauthorized construction of shop with brick mezzanine wall and G.I. Sheet roof situated at CTS No.706 and 723, Lal Bahadur Shastri Road, Mulund West, Mumbai, Maharashtra 400080.

12. In the above fact situation where there is dispute about the ownership of the subject land and there is no averment that the Applicant is the owner of the structure in respect of which the demolition notice has been issued, whether the Applicant is entitled to be impleaded as party to the proceedings is the question requiring determination.

13. The Applicant has filed an Affidavit in reply in the present Petition reiterating that the Applicant is lawful owner of the land bearing survey No 67 and CTS No 723 situated at Mulund.

14. It will be beneficial to refer to some of the decisions of the Apex Court dealing with similar issues. The Apex Court in the case of ***Ramesh Hirachand Kundanmal*** (supra) was considering the issue of impleadment of the lessee of the land on which the service station was erected and in possession of the appellant. The action in that case was challenge to the notice issued by the Corporation for demolition of unauthorised two chattels on the terrace. The Apex Court after analysing the provisions of Order 1 Rule 10(2) of CPC held in paragraph 14 and 18 as under:

“14. It cannot be said that the main object of the rule is to prevent multiplicity of actions though it may incidentally have that effect. But that appears to be a desirable consequence of the rule rather than its main objective. The person to be joined must be one whose presence is necessary as a party. What makes a person a necessary party is not

*merely that he has relevant evidence to give on some of the questions involved; that would only make him a necessary witness. It is not merely that he has an interest in the correct solution of some question involved and has thought of relevant arguments to advance. The only reason which makes it necessary to make a person a party to an action is so that he should be bound by the result of the action and the question to be settled, therefore, must be a question in the action which cannot be effectually and completely settled unless he is a party. The line has been drawn on a wider construction of the rule between the direct interest or the legal interest and commercial interest. It is, therefore, necessary that the person must be directly or legally interested in the action in the answer, i.e. he can say that the litigation may lead to a result which will affect him legally that is by curtailing his legal rights. It is difficult to say that the rule contemplates joining as a defendant a person whose only object is to prosecute his own cause of action. Similar provision was considered in *Amon v. Raphael Tuck & Sons Ltd.*, wherein after quoting the observations of Wynn-Parry, J. in *Dollfus Mieg et Compagnie S.A. v. Bank of England*, that their true test lies not so much in an analysis of what are the constituents of the Applicants' rights, but rather in what would be the result on the subject matter of the action if those rights could be established, Devlin, J. has stated :*

"The test is 'May the order for which the plaintiff is asking directly affect the intervenor in the enjoyment of his legal rights.'"

18. The courts below have assumed that the subject matter of the litigation is the structure erected by the respondent or in other words the service station which has been allowed to be operated upon by the plaintiff under the terms of dealership agreement. The notice does not relate to that structure but is in relation to the two chattels stated to have been erected by the present appellant unauthorisedly. According to the appellant these chattels/structures are moveables on wheels and plates where servicing page and/or repairs are done and used for storing implements of the mechanics. Respondent 2 has no interest in these chattels and the demolition of the same in pursuance to the notice is not a matter which affects the legal rights of the respondent. The courts below, therefore, failed to note that the

Respondent 2 has no direct interest in the subject matter of the litigation and the addition of the respondent would result in causing serious prejudice to the appellant and the substitution or the addition of a new cause of action would only widen the issue which is required to be adjudicated and settled. The joining of the party would embarrass the plaintiff and issues not germane to the suit would be required to be raised. The mere fact that a fresh litigation can be avoided is no ground to invoke the power under the rule in such cases.”

15. The Apex Court in facts of that case held that the notice did not relate to the structure but is in relation to two chattels stated to be unauthorised and the Respondent No 2 therein has no interest in the chattels and demolition of the same is not a matter which affects the legal rights of the Respondent and as such the Respondent No. 2 has no direct interest in the subject matter of litigation. The Apex Court observed that addition of the Respondent would result in causing serious prejudice to the appellant and substitution or addition of new cause of action would only widen the issue required to be adjudicated and settled. The Apex Court declined impleadment of Respondent No 2. It will be worthwhile to note that in the present case the Applicant claims ownership of the subject land and not the structure in respect of which the notice has been issued. Applying the law laid down by the Apex Court to facts of present case the Applicant has no direct interest in the demolition of the structure alleged to be unauthorised.

16. In the case of ***Aliji Momonji and Company*** (supra) notice was issued under Section 351 of the Municipal Corporation Act for demolition of portion of building on the ground that the appellant had made unauthorized structures, the appellant being the lessee of the plot. The landlord in that case sought to be impleaded as a party claiming to have direct interest in the property which was ordered by the trial Court and upheld by the High Court. The Apex Court while considering the issue as to whether the landlord is a necessary or proper party to the suit for perpetual injunction against the Municipal Corporation for demolition of the demised building held that the landlord has a direct and substantial interest in the demised building before the demolition of which notice under Section 351 was issued as in the event of demolition his right, title and interest in the property demised to the tenant or licensee would be in jeopardy. While considering the said issue the Apex Court took into consideration the decision in the case of ***Ramesh Hiranand Kundanmal*** (supra). The Apex Court in the facts of that case held that the landlord would be a proper party though no relief has been sought for against the landlord for the reason that in event the building is being demolished the right, title and interest of the landlord would be directly affected. In that case, there was no dispute about the ownership of the property or that the notice structure was

demised to the tenant by the owner-landlord, which is not the position in the present case.

17. The Apex Court in the case of ***Mohamed Hussain Gulam Ali Shariffi vs Municipal Corporation of Greater Bombay and Ors.***⁹ was considering a challenge to a notice under Section 351 in respect of unauthorized construction in the building in question wherein the Respondent Nos.2 and 3 sought to be impleaded on the ground that the Respondent Nos.2 and 3 have the interest in the suit house inasmuch as the Respondent Nos 2 and 3 claimed to have an interest in the suit house by ownership, in respect of which civil suit seeking specific performance of agreement was pending. In that case the Apex Court noted the settled principle of law that the plaintiffs being a *dominus litis* cannot be forced to add any person as party to his suit unless it is held that the party is a necessary party. The Apex Court in the facts of that case held that the presence of the Respondent Nos.2 and 3 was not required for deciding the legality of notice impugned in the suit and in the suit in question, the Court was not called upon to adjudicate the rights between the appellant and Respondent No.2 and 3 in relation to the suit house. In paragraph 17, the Apex Court held that merely because the suit house is the subject matter between the

9 2017(6) All M.R. 420 (SC)

parties is no ground to get the dispute arising between the parties settled in one suit regardless of nature of cause of action on which the suit is founded.

18. Following the decision of **Mohamed Hussain Gulam Ali Shariffi** (*supra*), this Court in case of **Deju Somaya Salian** (*supra*) after considering the decision of the Apex Court in the case of **Aliji Momonji and Company** (*supra*) as well as **Mohamed Hussain Gulam Ali Shariffi** (*supra*) noted that the Respondent No.3 had already filed a separate suit for seeking partition of the property including the suit property and set aside the order impleading the Respondent No.3 who was the co-owner to the property in the suit filed challenging the notice issued under 354A of the MMC Act.

19. Now coming to the decisions of this Court relied upon by the learned counsel for Applicant, in the case of **Johnson John** (*supra*) a Single Judge of this Court was considering the order passed impleading the Respondent No.2 -Housing Society as party. This Court in that case after taking into consideration the facts of that case as well as the decisions of the Apex Court in the case of **Mohamed Hussain Gulam Ali Shariffi** (*supra*) held that admittedly the suit premises in respect of which the notice is issued was part of the

society. This Court in the facts of that case observed that the specific case of the society was that the Petitioner had covered stilt portion of the building which was used as passage causing not only inconvenience to other members of the society but was also absolutely unlawful and illegal activity and that the presence of the society will help and assist the Court in arriving at proper finding and adjudication of the dispute. This Court held that the society had direct interest in the property particularly in the common open space and as such the impleadment of the society cannot be faulted with.

20. The next decision which has been relied upon by the learned counsel for the Respondent No.2 is in the case of **Arun R. Singh and another** (supra) wherein the notice was issued in respect of a structure which was constructed adjacent to the gate of society and in the facts of that case this Court held that the alleged illegal structure was hindering the ingress and egress of the society and any order passed in the suit will directly affect his right and relying upon the decision of the Apex Court in the case of **Aliji Momonji And Company** (supra) permitted the impleadment of the society. Pertinently this Court considered the decision in the case of **Mohamed Hussain Gulam Ali Shariffi** (supra) and noted that in the facts of that case as the Respondent Nos.2 and 3 have filed their independent suit seeking

specific performance of the agreement in relation to the property in question, the Apex Court held that the rights of the Respondent Nos.2 and 3 are not going to be affected by the outcome of the suit filed against the Municipal Corporation. The decision in the case of ***Deju Somaya Salian*** (supra) was distinguished on the ground that apart from saying that the Respondent No.3 is the landlord nothing was brought on record to show how the rights were being directly affected.

21. The next decision relied upon by the learned counsel for the Applicant is the decision in the case of ***Garment Craft*** (supra). The decision is relied upon in support of the proposition that the supervisory jurisdiction is not to correct every error of fact or even a legal flaw when the final finding is justified or can be supported.

22. To my mind, upon reading of the decisions of the Apex Court cited supra, the position in law that emerges, in context of impleadment of party, is that the person seeking impleadment must have *direct* and *substantial* interest in the property forming subject matter of the proceeding. He must be bound by the result in the action and his rights must be materially affected by the outcome of the proceedings. At the same time, as the Court is not called upon to adjudicate the competing rights in the suit property between the

parties, it follows that merely because the suit property is subject matter of the proceeding is not a ground to seek impleadment and get the dispute settled in one suit regardless of cause of action. In my opinion, there cannot be a strait jacket formula in deciding the issue arising out of provisions of Order 1 Rule 10 of CPC and the matter will have to be decided considering the facts of each case by applying the principles laid down by the Apex Court as indicated above.

23. If we peruse the application filed by the Applicant seeking impleadment, the contentions therein attempt to establish the ownership of the Applicant via the Indenture of Conveyance dated 12th December, 2005. Apart from pleading ownership, there is nothing to demonstrate as to how his rights are going to be directly affected. In my view, the decision of Apex Court in case of ***Ramesh Hirachand Kundanmal*** (supra) is squarely applicable to the facts of present case. Reliance placed on the decision of Apex Court in case of ***Aliji Momonji and Company*** (supra) is clearly misplaced as in that case landlord had direct interest in the structure sought to be demolished.

24. In the decisions of this Court which has been relied upon by the learned counsel for the Applicant this Court had permitted the impleadment of the society inasmuch as the unauthorized construction was carried out in respect of the part of the society

which directly affected the interest of the society and as such the facts are clearly distinguishable.

25. As regards presumption of ownership on the basis of revenue entries are concerned, learned counsel for the Petitioners has relied upon the decision of this Court in the case of ***Madhukar Dadu Nigde*** (supra). The facts of this case are clearly distinguishable inasmuch as in that case the interim relief injunction was an issue and as the Defendant therein admittedly had a share in the land in question, this Court held that on the basis of the revenue entries it cannot be said that the Defendant therein had no right to carry out the construction. It is a settled position that entry in revenue records does not confer title on the person and have only presumptive value.

26. In so far as the contention of the learned counsel for Applicant as regards the exercise of power under Article 227 of Constitution of India, in my opinion, considering the facts of this case, the addition of the Applicant would result in causing prejudice to the Plaintiff and expand the scope of the suit and and as such in my opinion, to prevent the miscarriage of justice, the power under Article 227 is required to be exercised.

27. Considering the above discussion, if we consider the facts of the present case, the Plaintiffs as well as the Applicant raise rival claims of ownership in the land on which the notice structure is situated. As the subject matter of the pending suit is the structure alleged to have been unauthorisedly erected by the Plaintiffs, the Applicant, even if claiming ownership in the land, has no direct interest in the notice structure and even if the same are demolished the rights of the Respondent No 2 will not be affected. That apart, considering that the ownership issue is yet to conclusively adjudicated in an independent proceeding, in my opinion, the impleadment of the Applicant will raise additional issues expanding the scope of the suit. As such the Applicant is not entitled to be impleaded as party to the proceedings.

28. In that view of the matter the impugned order impleading the Respondent No.2 as party cannot be sustained and the same is quashed and set aside.

29. Writ Petitions stand allowed.

[Sharmila U. Deshmukh, J.]