

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

CIVIL REVISION APPLICATION NO.525 OF 2022

Vincent Court Private LimitedApplicant

Versus

Maniben Magan Supat, since deceased,
through L.R.
and another

.... Respondents

Mr. Akshay R. Kapadia, Advocate for the Applicant.

Mr. Harish R. Pawar, Advocate for the Respondent No.1.

CORAM : SARANG V. KOTWAL, J.

DATE : 14th MARCH, 2023

P.C. :

1. This Civil Revision Application is filed challenging the order dated 18.8.2022 passed by the Adhoc Judge, City Civil Court, Greater Bombay passed in Chamber Summons No.524/2015 in L.C. Suit No.3675/2013. The Applicant herein is not a party to the suit. The suit was filed by the Respondent No.1, as the Plaintiff, against the Respondent No.2 herein i.e. the Municipal Corporation of Greater Mumbai.

2. The case of the Applicant is that it had acquired the leasehold right in the suit property by the deed dated 16.10.1950. The original Plaintiff's husband was given some portion below the stair-case by the Applicant company. It is the case of the Applicant that the Plaintiff's husband passed away. Thereafter the Applicant permitted his son to work in his place and for sometime he was allowed to stay in that quarter. However, the Applicant terminated the services of the Plaintiff's son on 29.10.2012 and directed his family to vacate the service quarters. They did not vacate the quarters and were unauthorizedly using it. The Applicant has filed Eviction Suit No.1582/2013 which is still pending.

3. The Respondent No.2 i.e. the Municipal Corporation of Greater Mumbai issued notice under Section 351 of the Mumbai Municipal Corporation Act against the Respondent No.1(the Plaintiff) for removing the unauthorized construction. The Respondent No.1 herein (the Plaintiff) filed L.C. Suit No.3675/2013 challenging that notice. In that suit, the Applicant made an application for

impleadment as one of the defendants by filing Chamber Summons No.524/2015 in the suit. That Chamber Summons was rejected.

4. Heard Shri Akshay Kapadia, learned counsel for the Applicant and Shri Harish Pawar, learned counsel for the Respondent No.1.

5. Learned counsel for the Applicant submitted that the suit filed by the Respondent No.1 is simply pending for a very long time and it is causing prejudice to the Applicant. The outcome of that suit may also have some impact on the Applicant's Eviction Suit No.1582/2013 and, therefore, the Applicant is a necessary party in L.C. Suit No.3675/2013.

6. Learned counsel for the Respondent No.1 submitted that the Applicant has filed their suit in the earlier point of time and they are protected by an order passed in the Notice of Motion in that particular suit. The L.C. Suit No.3675/2013 is filed against the Respondent No.2 herein and the specific prayer is claimed only against the

Respondent No.2 herein. For consideration of that prayer, the Applicant herein is not a necessary party.

7. I have considered these submissions. The learned Judge has given reasons in paragraph-7 for rejecting the Chamber Summons. It is observed that the subject matter of L.C. Suit No.3675/2013 is the show cause notice issued by the BMC and the dispute revolved around the illegality of the impugned notice. The Applicant had already filed its own suit being Civil Suit No.1582/2013 against the Respondent No.1 (the Plaintiff) which was pending and, therefore, the Chamber Summons was rejected. I do not see any infirmity in the reasoning of the learned Adhoc Judge, City Civil Court, Greater Bombay in rejecting the Chamber Summons.

8. The causes of action in both the suits are entirely different. In the suit filed by the Respondent No.1 i.e. L.C. Suit No.3675/2013, the prayer is restricted only in respect of the notice issued under Section 351 of MMC Act and in respect of that notice the Applicant has no role to play. They

have already filed their own suit i.e. Eviction Suit No.1582/2013. Their rights and the reliefs claimed by them shall be decided in that particular eviction suit. The Applicant, therefore, cannot claim to be a necessary party for the decision in L.C. Suit No.3675/2013. The scope of this suit is quite different. Therefore, I do not see any merit in the C.R.A.. Civil Revision Application is dismissed.

(SARANG V. KOTWAL, J.)

Digitally signed
by
PRADIPKUMAR
PRAKASHRAO
DESHMANE
Date:
2023.03.17
11:34:33 +0530