

Sayali Upasani

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

**APPEAL FROM ORDER NO. 1175 OF 2022**

Shashikant Atmaram Mali ...Appellant

**Vs.**

The Municipal Corporation of Greater ...Respondent  
Mumbai

Mr. Abhijit P. Rane, for Appellant.

Ms. Smita Tondwalkar, for MCGM/Respondent.

**CORAM:- N. J. JAMADAR, J.**

**DATED:- 15<sup>th</sup> MARCH, 2023**

**PC:-**

- 1) Heard the learned Counsel for the appellant.
- 2) The challenge in this Appeal is to an order dated 20<sup>th</sup> September, 2022, passed by Ad-hoc Judge, City Civil Court, Mumbai in Chamber Summons No. 285 of 2022, whereby the learned Judge rejected the Chamber Summons to implead the City Survey Office, Mulund as a party defendant to the Suit.

3) The learned Judge found that City Survey office, Mulund was not a necessary party for an effectual and complete adjudication of the dispute.

4) The learned Counsel for the appellant invites the attention of the Court to the order dated 5<sup>th</sup> December, 2022, passed in Notice of Motion No. 492 of 2020, whereby while granting the ad-interim relief, the Court had directed the plaintiff to approach the office of City Survey Officer to obtain report in respect of the suit premises and measurement map of C.T.S .No. 731.

5) The learned Counsel for the appellant submits that despite making applications, there has been no response from the City Survey office, Mulund. Hence, the plaintiff was constrained to take out the Chamber Summons.

6) The learned Judge, City Civil Court has not committed any illegality in declining to implead the City Survey Office, Mulund as a party defendant to Suit. Even otherwise, the said order is not amenable to an Appeal under Order 43 of the Code of Civil Procedure, 1908.

7) The proper remedy for the plaintiff is to seek appointment of the City Survey Officer, Mulund, as the Court Commissioner to measure the suit property and submit a report, if so advised.

- 8) Keeping open that liberty, the Appeal stands dismissed.

**[N. J. JAMADAR, J.]**