

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
APPEALS NO. 376 OF 2011
IN
CHAMBER SUMMONS NO. 610 OF 2009**

Asmabegum Co-op Hsg. Society Ltd. ...Appellant
Versus
Girdharlal Mehta And Ors. ...Respondents

**WITH
APPEALS NO. 377 OF 2011
IN
CHAMBER SUMMONS NO. 609 OF 2009**

Mr. Girish Godbole a/w Ms Gauri Mestha i/b L. J. Law for Appellant.

Mr. Shiraz Rustomjee, Senior Advocate a/w Mr. Ankit Lohia, Mr. Shanay Shah, Ms Sita Kapadia, Ms Tvishi Pant and Ms Anusha Guthi i/b Keystone Partners for Respondent No.1 to 3.

Mr. V. Mannadiar a/w Ms Dhannya Prasad, Ms Sanika Wabale & Mr. Sumukh Rackvi i/b Mannadiar & Co. for Respondent No.6.

**CORAM : K.R. SHRIRAM &
RAJESH S. PATIL JJ
DATED : 11th JANUARY 2023**

PC. :

1 After hearing the appeal for sometime, on the suggestions made by Mr. Rustomjee, Mr. Godbole and Mr. Mannadiar, following order is passed keeping open all rights and contentions of parties in the suit.

(a) Appellant has filed the present Appeals for challenging the Judgment and Order dated 21st December, 2010 passed by the Learned Single Judge thereby dismissing the Chamber Summons No. 610 of 2009 in Suit No. 3006 of 2008 and Chamber Summons No. 609 of 2009 in Suit No. 3005 of 2008

seeking the impleadment of Appellants in the said Suits filed by Respondent Nos.1 to 3. By Order dated 21st July, 2011 both the Appeals were admitted and the further proceedings in the Suits were stayed. Subsequently, the Appeals were dismissed for default, but by Order dated 1st November, 2022 passed by the Supreme Court of India, the Appeals have been restored.

(b) Four Suits filed by the parties in the present Appeals are pending in this Court, i.e., i) Suit No.3005 of 2008 originally filed by Respondent Nos.1 to 3, whose legal heirs, i.e., Plaintiffs in the said Suit have since been brought on record, ii) Suit No. 3006 of 2008 originally filed by Respondent Nos. 1 to 3, whose legal heirs, i.e., Plaintiffs in the said Suit have since been brought on record, iii) Suit No. 773 of 2007 filed by Appellant and iv) Suit No. 2941 of 2005 filed by Respondent No.7 in the captioned Appeals (Ursula S. Pereira) and Ms. Teresa Gonsalves, through Constituted Attorney Mr. Atul Patel, and Respondent No. 4 in the Appeals, i.e., Atul Builders and Estates Ltd., against *inter alia* the Appellant and M/s. Allied Engineering Corporation. By an Administrative Order, all four Suits are clubbed.

(c) Appellant, being the Plaintiff in Suit No.773 of 2007 agrees to implead Plaintiffs in Suit Nos.3005 and 3006 of 2008, i.e., Mr. Mahendra Girdharlal Mehta, Ms. Shweta Mahendra Mehta, Ms. Meeta Mahendra Mehta and Ms. Reeta Mahendra Mehta, as party Defendants in the said Suit No. 773 of 2007.

(d) Plaintiffs in Suit Nos.3005 and 3006 of 2008 agree to implead Appellant as party Defendant in Suit Nos.3005 and 3006 of 2008.

(e) In view of the aforesaid impleadment by consent, the impugned Judgments and Orders both dated 21.12.2010 are quashed and set aside.

(f) The impleadment noted above (a) shall be without prejudice to the rights and contentions of the parties, including their contentions that the respective prospective Defendants are not necessary parties and have no right or entitlement to oppose the reliefs sought in the Suits and interim proceedings therein; and (b) shall not affect the orders already passed in the respective Suits.

(g) The added Defendants are directed to file their respective Written Statements within six weeks from today.

(h) Since all four Suits are already clubbed, the parties are at liberty to apply to the Learned Single Judge for appropriate directions for proceeding with the suits by settling the issues and for leading of evidence and fixing the time schedules for completion of procedures in the Suits.

(i) As the suits have been pending for over 14 years, the Learned Single Judge is requested to expedite the hearing of all the Suits.

(j) Both the Appeals are disposed in the above terms, with no order as to costs.

(RAJESH S PATIL, J.)

(K.R. SHRIRAM, J.)