

Amberkar

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 1929 of 2024

WITH

WRIT PETITION NO. 1930 OF 2024

Sanjay K. Upadhyay

.. Petitioner

Versus

The Municipal Corporation of Greater Mumbai
& Ors.

.. Respondents

-
- Ms. Geeta Shastri i/by Mr. Mevalal Verma for Petitioner
-

CORAM : MILIND N. JADHAV, J.

DATE : JULY 22, 2024

P. C.:

1. Heard Ms. Shastri, learned Advocate for Petitioner.
2. Both these Petitions challenge the order of impleadment of two landlords claiming ownership of the Suit property which have been passed by virtue of two separate orders by the City Civil Court in two separate Chamber Summons. Plaintiff (Petitioner herein) in both Petitions has challenged the statutory process / notice issued to the Plaintiff under the provisions of the MRTP Act, 1966 in respect of the Suit property. According to the Plaintiff, Suit property is described in paragraph No. 1 of the Suit plaint. One of the submissions advanced by Ms. Shastri is that there are two persons claiming ownership of the Suit property and they both have filed impleadment Applications which have been allowed by the impugned orders.

3. Ms. Shastri would draw my attention to the impugned orders and the description of the Suit property and would submit that Plaintiff does not accept both the parties as owners. She would submit that both of them have filed the impleadment Application on the basis of claiming ownership in the Suit property but according to Plaintiff, they are concerned with the adjacent property in the larger layout. According to Plaintiff both persons who claim ownership of the Suit property are in fact concerned with the adjacent property in the larger holding and further according to Plaintiff, these two persons have purchased a part of the property in the larger holding which is other than the property occupied by the Plaintiff in respect of which the statutory process / notice has been received.

4. After hearing Ms. Shastri and perusing the record as also both the impugned orders, it is seen that an arguable case is made out by her for issuance of notice and stay to the Suit proceedings before the learned Trial Court. Hence, in the meanwhile Suit proceedings i.e. L.S. Suit No. 2328/2022 pending before the learned Trial Court shall stand stayed until the present two Petitions are determined by this Court.

5. In view of the above, issue notice to the Respondents made returnable on 05.08.2024. Humdast permitted. In addition to Court's notice, Petitioner is directed to serve copy of this order on the

Respondents and inform them about the next date of hearing by any permissible mode of service and file appropriate affidavit of service with tangible proof thereof on or before the next date. After receiving the notice, Respondents in both Writ Petitions to file affidavit-in-reply on or before the next date, if so desired with an advance copy to the Advocate for Petitioner.

6. Respondents are directed to remain present either by themselves or their Advocate on the next adjourned date. It is made clear that if Respondents remain absent despite service on the next adjourned date, the Writ Petitions shall be heard and disposed of at the stage of admission in the absence of the Respondents.

7. Stand over to **5th August, 2024.**

Amberkar

[MILIND N. JADHAV, J.]

RAVINDRA
MOHAN
AMBERKAR

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signed by
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