

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.1750 OF 2025

Mufazzal Saifuddin Lehri and Another ...Petitioners
vs.
Aslam A. Ansari and Other ...Respondents

Mr. Shoaib Memon, for the Petitioners
Mrs. Sulbha Chipade, AGP for Respondent No. 3-State.

CORAM : N. J. JAMADAR, J.
DATE : MARCH 18, 2025

P.C:

1. Heard the learned counsel for the petitioners.
2. The challenge in this petition is to an order dated 14th August, 2024 passed by the learned Judge, City Civil Court, Mumbai in Chamber Summons No. 74 of 2024 taken out by the petitioners to implead them as a party-defendants in the suit instituted by the respondents assailing legality, propriety and correctness of the notice issued by the Municipal Corporation of Greater Mumbai under section 53(1) of the Maharashtra Regional and Town Planning Act, 1966.
3. The petitioners claim to be the persons who are affected by the illegal development carried by the plaintiffs in the notice structure. The petitioners have lodged complaints in the Municipal Corporation about the leakage and unauthorized construction of

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bathroom in Flat No. 301 of the Bandra Sea Heaven Co. Operative Housing Society, Bandra (w).

4. The learned Judge, City Civil Court was of the view that the question that would arise for determination in the suit would be the legality and validity of the notice issued by the Municipal Corporation and the petitioners are not a necessary party to the said suit.

5. Evidently, the Petitioners are not the owners of the premises in respect of which the notice has been issued by the Municipal Corporation, the legality and validity of which has been assailed in the suit. The Petitioners claimed that on account of the unauthorized development and leakages from the notice structure i.e. Flat No.301, damage has been caused to Flat No.201, which belongs to the Petitioners and is situated below Flat No.301.

6. In the backdrop of the nature of the suit in which the legality and validity of the notice issued by the Municipal Corporation, would be adjudicated, the Petitioners do not appear to be either necessary or proper parties. It cannot be said that no effective decree can be passed in the absence of the Petitioners. Nor can it be said that, though no relief is claimed against the Petitioners, presence of the Petitioners would enable the Court to have a complete and effectual adjudication of the dispute.

7. As regards the alleged damage caused to the petitioners' flat, the Petitioners can invoke an independent remedy of a suit for damages.

8. Thus, there is no infirmity in the order passed by the learned Judge, City Civil Court. Therefore, no interference is warranted in the impugned order.

9. The petition stands dismissed.

(N. J. JAMADAR, J.)