

**BEFORE THE PRINCIPAL DISTRICT JUDGE, AT BHARUCH**

**Order Below Exh.8 in Misc. Civil Appeal No. 6 of 2023**

1. The present application is preferred by the third party namely: Praful Mistry, R/o. Dharmnagar Society, Bharuch to join him as a party in the present Misc. Civil Appeal filed by Bharuch-Ankleshwar Urban Development Authority (For short "BHUDA").
2. The Ld. Advocate for the applicant has submitted that the respondents of this MCA are the builders and promoters of the Dharmnagar Co-operative Housing Society. It is further stated that the respondents of this MCA have filed Regular Civil Suit No.169/2023 before the Civil Court, Bharuch against BHUDA and State Government. It is further stated that in the said suit, interim injunction application was filed below **Exh.5** which was allowed by the Ld. Trial Court and the respondents have been permitted to carry on construction. He has submitted that the plaintiffs are making construction on the common plot of the Dharmnagar Society and therefore, the present applicant being member of the said society is affecting party. He has therefore submitted to allow this application.
3. The notice below this application was issued and the Ld. Advocate for the respondents (Original plaintiffs) filed reply at **Exh.12** and objected this application. He has submitted that in Regular Civil Appeal No.169/2023 filed by the plaintiffs i.e. respondents of MCA No.6/2023, 32 members of the Dharmnagar Co-operative Housing Society have filed an application for joining them as a party at **Exh.17**. He has submitted that in the said application, the present applicant was at Serial No.13. He has further submitted that the said

application below **Exh.17** was rejected by the Ld. Trial Court vide order dated 22.09.2023. He has submitted that the order below **Exh.17** has been challenged by the present third party-applicant and other members of the society before the Hon'ble High Court by filing Special Civil Application No.12508/2024 and the same is pending. He has therefore submitted that when applicant is not joined as party by the Ld. Trial Court and the said order is under challenged before the Hon'ble High Court, the present application may not be entertained.

4. Heard, Ld. Advocate for the third party-applicant as well as respondents of MCA No.6/2023. None appeared for BHUDA at the time of hearing of this application.
5. It is not disputed that the respondents have filed Regular Civil Suit No.16/2023 before the Civil Court, Bharuch against BHUDA and State Government. In the said suit, the present third party-applicant; Praful Mistry and other 31 persons have filed an application at **Exh.17** to join them as a party. It is not disputed that the said application at **Exh.17** was rejected by Ld. Trial Court vide order dated 22.09.2023 and the present applicant and other persons have challenged the said order before the Hon'ble High Court by way of filing SCA No.12508/2024 and the same is pending before the Hon'ble High Court. Upon consideration of the arguments presented before this court, this court finds merit in the submission of the respondents. Allowing the application to join as a party in this appeal, while the Hon'ble High Court is seized of the very question of his impleadment in the main suit, would undeniably lead to premature and potentially conflicting determination of an issue that is sub-judice before the higher forum. Furthermore,

permitting such an application at this stage would inevitably pre-empt the Hon'ble High Court's decision on the pending petition. It would, in essence, amount to this court indirectly allowing the very relief that the applicant is seeking from the Hon'ble High Court, thereby circumventing the proper judicial process and potentially leading to an anomalous situation.

6. Therefore, in light of the above fact that the issue of the applicant's impleadment in the original suit is pending before the Hon'ble High Court, this court deems it improper to allow this application to join as a party in the present appeal. Hence, I pass the following order:-

**ORDER**

The present application is hereby dismissed.

Date: 02/07/2025

**(R. K. Desai)**  
**Principal District Judge**  
**Bharuch**  
**Code No.GJ00912**