



legha

1_wp_10280_2022 and group

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 10280 OF 2022

WITH

WRIT PETITION NO. 10529 OF 2022

WITH

WRIT PETITION NO. 10527 OF 2022

WITH

WRIT PETITION NO. 10548 OF 2022

WITH

WRIT PETITION NO. 10528 OF 2022

Zahir Nazir Shaikh And Anr.

...Petitioners

V/s.

Amir Nazir Shaikh And Ors

...Respondent

Mr. Amogh Singh with *mr. Sarvesh Dixit and Mr. Rutuparn Umesh Deo*
i/b Mr. A. K. Singh for Petitioners.

Mr. Rajesh Kachare *i/b Mr. S. S. Kharat for Respondent No. 1 to 3.*

CORAM: SANDEEP V. MARNE, J.

DATED: 08 MAY 2026.

P.C.:

1) Petitions challenge orders dated 8 April 2022 passed by the learned Judge, City Civil Court dismissing the Chamber Summons taken out by the Petitioner for their impleadment as Defendants in the Suits.

2) I have heard Mr. Singh, the learned counsel appearing for the Petitioners and Mr. Rajesh Kachare, the learned counsel appearing for Respondent Nos.1 to 3/ original Plaintiffs.

3) Perusal of the Complaint would clearly indicate that Plaintiffs are challenging documents of purchase of flats by the Defendants by alleging that the units purchased by the Defendants are in fact illegally constructed. Illegal construction is sought to be attributed to the Petitioners. This is clear from averments made in paragraph 6 of the Complaint:

6. The plaintiffs state that thereafter the firm has applied for the IOD in respect of the suit property, which came to be granted. The plaintiffs state that then the firm has also applied for the Commencement Certificate in respect of the said property, which came to be granted to the firm only on 16.03.1998, for the only two upper floors of the suit Building. The plaintiffs state that however pending the further Commencement Certificate, the father and mother of the defendants had illegally and unlawfully constructed one additional floor along with terrace in respect of Wing-A of the suit Building. The plaintiffs state that not only that but the father and mother of the defendants constructed two additional floors in respect of Wing-B of the suit Building, even though the said acts were objected by the Plaintiffs as they were more interested in full completion of the suit property as per the approved plan of the B.M.C.

4) Thus, there are direct allegations against the Petitioner of indulging in unauthorised construction of flats, which are subject matter of the Suits. In that view of the matter, Petitioners become necessary parties to the Suits as they can demonstrate before the Court as to how the suit premises are authorised.

5) In my view, therefore, the Trial Court has erred in rejecting the Applications for impleadment filed by the Petitioners. The Petitioners are necessary parties to the Suit. There are direct allegations against the Petitioners in the Suits.

6) Petitions accordingly succeed. Impugned orders dated 8 April 2022 are set aside. Chamber summons filed in each of the Petitions are made absolute in terms of the prayers made therein. Necessary amendments shall be carried out in the Plaint within a period of six weeks from today. Petitioners to file their written statement in each of the Suits within a period of three months from today.

7) With the above directions, the Petitions are allowed and **disposed of.**

[SANDEEP V. MARNE, J.].