



**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION**

APPEAL (L) NO.36704 OF 2025

IN

CHAMBER SUMMONS NO.159 OF 2018

IN

TESTAMENTARY SUIT NO.94 OF 2011

IN

TESTAMENTARY PETITION NO.401 OF 2011

Auto Credit Corporation & Ors.

.. Appellants

Versus

Mukesh Bansilal Shah & Ors.

.. Respondents

UTKARSH
KAKASAHEB
BHALERAU

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**Mr.Yusuf Iqbal Yusuf a/w Suruchi Deshpande Yusuf,
Anvee Mehta, Shaista Pathan, Vasudha Gupta i/b YNA
Legal LLP, Advocates for the Petitioners.**

**Mr.K. K. Trivedi, Administrator appointed by Court and
Respondent No.3.**

**CORAM : B. P. COLABAWALLA &
AMIT S. JAMSANDEKAR, JJ.**

DATE : DECEMBER 19, 2025

P. C.

1. The above Appeal has been filed challenging the order dated 30th September 2025 passed by the learned Single Judge in

Chamber Summons No.159 of 2018 in Testamentary Suit No.94 of 2011. By the impugned order not only was the Chamber Summons of the Appellant dismissed but costs of Rs.25 Lakhs were imposed upon the Appellant. Further, contempt notices have also been issued.

2. We have heard the learned counsel for the parties. We have also perused the papers and proceedings in the above Appeal. Firstly, without going into the merits of the matter, we are of the view that the impugned order has to be set aside for the simple reason that the above Chamber Summons was directed to be heard along with Civil Revision Application No.456 of 2013 and Civil Revision Application No.882 of 2012. It is true that the Applicant did not take any steps to move the Hon'ble Chief Justice (on the Administrative Side) to have the matter clubbed with the aforesaid Civil Revision Applications. However, that cannot a ground for dismissing the Chamber Summons and imposing unreasonable costs of Rs.25 Lakhs. Further as noted by the learned Judge himself that it was the Appellants' contention that they were tenants of the deceased Madhavi Dhirajlal Sagar, and thereafter of Mahesh Mithalal Trivedi, who claims ownership of the building in which the tenanted premises are situated. The learned Judge also noted that eviction suits were filed namely, RAE Suit No.418/1069 of 1991 and

RAE Suit No.419/1070 of 1991 by Madhavi Dhirajlal Sagar for recovery of possession of the tenanted premises. Both these suits were dismissed and the Appeals therefrom were also dismissed on 30th November 2011. Against the dismissal of these Appeals, Civil Revision Application No.456 of 2013 and Civil Revision Application No.882 of 2012 were filed in this Court and which are pending.

3. Once this was the position, we fail to understand how the learned Judge, in the impugned order, has come to the conclusion that the Appellants can be construed merely as an occupant and not a tenant, when in fact the eviction suits filed by the Madhavi Dhirajlal Sagar was on the basis that Appellant No.1 was her tenant. All these issues would have to be gone into the greater detail when the Chamber Summons is heard alongwith the pending Civil Revision Applications. Once these are the facts, we find that the order passed by the learned Single Judge is unsustainable. It is accordingly set aside.

4. We now direct the Registry to move the Hon'ble Chief Justice (on the Administrative Side) for passing appropriate orders to have the above Chamber Summons No.159 of 2018 to be tagged along

with Civil Revision Application No.456 of 2013 and Civil Revision Application No.882 of 2012.

5. The Appeal is disposed of in the aforesaid terms. However, there shall be no order as to costs.

6. This order will be digitally signed by the Private Secretary/ Personal Assistant of this Court. All concerned will act on production by fax or email of a digitally signed copy of this order.

[AMIT S. JAMSANDEKAR, J.]

[B. P. COLABAWALLA, J.]