

IN THE HIGH COURT OF JUDICATURE AT BOMBAY***CIVIL APPELLATE JURISDICTION*****APPEAL FROM ORDER NO. 59 OF 2016****ALONGWITH****CIVIL APPLICATION NO. 74 OF 2016****IN****APPEAL FROM ORDER NO. 59 OF 2016****Rajesh Chunilal Meghani****..... Applicant****VERSUS****The Andheri Recreation Club & Ors.****..... Respondents**

Mr.Kishore Jain, a/w. Ms.Shweta Jain, Najafiya Shroff, i/b. Mr.P.V.Shah for the Applicant.

Mr.D.H.Mehta, a/w. Mr.Ruchir Tolat, i/b.L.C.Tolat & Co. for the Respondent Nos. 1 to 3 and 14.

Mr.Vishal Kanade, i/b. Mr.Dilip H.Shukla for Respondent Nos. 4 and 5.

Mr.G.C.Singh for Respondent No.6.

Mr.Rajkumar Mishra for Respondent Nos. 7 and 8.

Ms.Sunanda Kumbhat, a/w. Sunny Punamiya, i/b.S.S.P.Legal for Respondent Nos. 10, 15 and 16.

CORAM : R.D. DHANUKA, J.**DATED : 25th JANUARY, 2016****P.C.**

By consent of parties, following order is passed :-

- (a) The learned trial judge is directed to hear Notice of Motion No.183 of 2016 filed by the defendant nos. 1 to 3 and 14 under section 9A of the Code of Civil Procedure, 1908 on 27th January, 2016, the day on which the said application is proposed to be heard by the learned trial judge. All the parties have agreed before this court that no adjournment would be

applied for before the learned trial judge on 27th January, 2016 and the arguments would be advanced in the said notice of motion. The learned trial judge shall hear the said application on 27th January, 2016 and shall pass an appropriate order thereon.

(b) In the event of the learned trial judge refuses to grant any relief in the said notice of motion under section 9A, in that event the learned trial judge shall allow the plaintiff to press for ad-interim relief in terms of prayer clause (a) of the Notice of Motion No.21 of 2016 and shall hear all the parties before him and shall pass appropriate order on that ad-interim application in terms of prayer clause (a) of the Notice of Motion.

(c) The learned trial judge while considering the Notice of Motion No.183 of 2016 and Notice of Motion No. 21 of 2016, shall decide the matter without being influenced by the observations made in the impugned order which is subject matter of this appeal and shall pass a fresh order in accordance with law.

(d) It is made clear that the learned trial judge shall consider the subsequent events having taken place in view of the agenda dated 19th November, 2015 of the proposed 42nd Annual General Meeting proposed to be held by defendant no.1 on 31st January, 2016 while considering the ad-interim application in terms of prayer (a) of the Notice of Motion No.21 of 2016.

(e) In view of the extreme urgency, all parties have agreed to proceed on the basis of the denial before the learned judge and not to file any affidavit in reply at this stage.

(f) It is made clear that this court has not expressed any views on the merits of the matter. All contentions of the parties are kept open.

2. Appeal from order is disposed of in the aforesaid terms. No order as to costs. In view of disposal of the appeal from order, civil application does not survive and is accordingly disposed of.

3. Parties to act on the authenticated copy of this order.

[R.D. DHANUKA, J.]