

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

**CIVIL APPLICATION NO.3978 OF 2015
IN
FIRST APPEAL NO.1235 OF 2015**

Mr.Pankaj Tailor Chand Jain & Ors. ..Applicants/Appellants
V/s.
Shree 1008 Chandraprabh Digamber
Jain Mandir Trust & Ors. ..Respondents

Mr.J.S. Kini i/by Mr.Suresh Dubey for the Applicants/Appellants.

Mr.S.L. Shah i/by Shah Legal for Respondent Nos.1 to 8.

CORAM : M. S. SONAK, J.

DATE : 20 MARCH 2017.

P.C.

1. In this Civil Application, the applicant seeks the following relief:-

“Prayer clause (a) Pending the hearing and final disposal of the appeal, the Respondents be directed by this Honourable court to allow the Petitioners to attend all the general body meeting to be held on 06th December 2016 and all other general body meetings/elections of the respondent No.1 trust to be held in future and the petitioners be allowed to exercise all the rights as members of the trust like any other members of the trust as also to exercise the rights as members in all functions/activities meant for the members of the

respondent No.1 trust.”

2. The appeal against judgment and decree dated 12-04-2013 has already been admitted. By the impugned decree, the applicant's suit, for being enrolled/ treated as members of the trust has been rejected. No doubt, at one stage there was ad-interim relief granted by the learned Trial Judge, however, the same was not substantially continued. The ad-interim relief was continued for some time, since, the motion for interim relief was declined on the ground that the Trial Court had no jurisdiction. Ultimately, it was found that the Trial Court has jurisdiction and now, the suit has been dismissed on merits. However, in this case, grant of interim relief as prayed for, would virtually, amount to grant of final relief.

3. By order dated 04 December 2015, this Court, by way of ad-interim relief, has permitted any three persons from amongst the 9 applicants to attend the Annual General Body Meeting. However, it was clarified that these three persons were not permitted to either speak or vote.

4. There is no case made out for grant of interim reliefs as prayed for in this Civil Application. However, any three appellants,

are always permitted to attend Annual General Body Meeting, as and when it is scheduled, although such three members shall not have the right to speak or vote at the meeting. However, if ultimately the appeal is allowed and it is held that the appellants are members, then, the appellants will be entitled to challenge the decisions made at such Annual General Body Meeting, on the ground that they were improperly left out. Such challenge will be considered on its own merits, as and when the same arises. Mr.Kini is however right in his submission that some orders be made for expeditious hearing of the appeal, since a short point is involved in the appeal and further, this matter relates to membership of 108 persons.

5. Accordingly, the Civil Application is disposed of in the aforesaid terms. However, the hearing in the appeal is expedited and the same be added to the final hearing board after the summer vacation. It is clarified that this order is only interim in nature and therefore, will be without prejudice to the rights and contentions of all parties.

(M. S. SONAK, J.)