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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
NOTICE OF MOTION (L) NO. 2290 OF 2016
IN
SUIT NO. 1418 OF 2012**

Kamal J Sheth & Anr	...Plaintiffs
<i>Versus</i>	
Hari A Ramnani & Ors	...Defendants
<i>And</i>	
Prathmesh Galaxy Members Welfare Association	...Applicant

Mr Rakesh Singh, *with Mr Pushkar Mishra, i/b MV Kini & Co, for the Applicant/Intervenor.*

Mr Ashish Kmat, *with Ms M Mohanty & Ms R Ramani, i/b SK Srivastav & Co, for the Plaintiffs.*

Ms N S Nappinai, *i/b Noelle-Ann Park, for Defendants Nos. 1 to 6.*

**CORAM: G.S. PATEL, J
DATED: 18th January 2017**

PC:-

1. This is a Notice of Motion by one Prathamesh Galaxy Members Welfare Association. It seeks that two orders be recalled. It is not a party to the Suit.

2. The next prayer in the Notice of Motion is that it be joined as “intervenor” in the Suit and in various Notices of Motion.

3. I failed to understand what this is supposed to mean. The Applicants have seem to have lost sight of the fact that this is not a public interest litigation or a writ petition. It is a civil suit. There is no concept of joining a party as an 'intervenor' in a civil suit. It must be joined either as a defendant or as a plaintiff. The applicant may have an independent cause of action against one or more of the existing defendants or against other parties. For that it must file a separate suit and then may apply for these suits and applications to be clubbed together. Merely seeking intervention in this fashion is entirely misconceived. Even if this is allowed, nothing further can be done. There is no provision in the Code of Civil Procedure 1908 for allowing an 'intervenor' to file a written statement or join in the trial in any shape, fashion or form. The only possible parallel is Order 1 Rule 8, but an application under that Rule must come from the Plaintiff and it must make out a ground for grant of leave. It is not at all clear whether the rights asserted by the applicant welfare society are shared by or hostile to those claimed by the Plaintiffs.

4. The Notice of Motion is thoroughly misconceived, and in any case when the matter is called out, none appears for the Applicant. It is dismissed. There will be no order as to costs.

5. However, all rights and contentions of the Applicant are specifically kept open. The Applicant will be at liberty to file a substantive suit, and to seek ad-interim reliefs in that suit. It may also seek clubbing of that suit along with other proceedings such as the present suit and connected matters.

(G. S. PATEL, J.)