

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
PETITION NO.271 OF 2017**

Sampronius Francis D'Souza & Anr. ...Petitioners
Vs.
Lalitambika Builders & Developers & Anr. ..Respondents

Mr.Nitin G. Raut with Mrs. G.P.Vas and Sunita Serrao i/b. M/s.P. Vas & Co., Advocates for Petitioners.

CORAM : K. K. TATED, J.
DATE : SEPTEMBER 12, 2017

P.C.:

1. Heard learned Counsel Mr.Nitin Raut for the petitioners.
2. The learned Counsel Mr.Nitin Raut for the petitioners submits that they filed the present petition under Order 1 Rule 8 of the Code of Civil Procedure, 1908 for permission to file the present suit on behalf of all the members of plaintiff No.2 Shree Laxmi Co-operative Housing Society Limited. He submits that there are in all 70 members of the said society, including petitioner no.1. He submits that by additional affidavit dated 11th September 2017, plaintiff no.1 on solemn affirmation stated that he received instructions to appear on behalf of all the members of the plaintiff No.2. The statement made by plaintiff no.1 on solemn affirmation in affidavit dated 11th September 2017 is accepted.
3. Considering the submission made by the learned Counsel for the petitioners and the averments made in the petition, I satisfy that the petitioners have made out a case for allowing this petition filed

under Order 1 Rule 8 of the Code of Civil Procedure, 1908, allowing the petitioners to file a suit on behalf of all the members of plaintiff No.2 on usual terms and conditions.

4. Hence, the following order is passed:-

ORDER

(A) The petition is allowed in terms of prayer clause (a) which reads thus:-

“(a) That this Hon'ble Court be pleased to grant leave to Petitioner No.1 along with Petitioner No.2 under Order 1 Rule 8 of the Code of Civil Procedure, 1908 to file, institute and prosecute Representative Suit on behalf of 69 other leasehold tenants/members, against the Respondents herein.”

(B) Petitioners to comply provisions of Order 1 Rule 8(2) of Civil Procedure Code within eight weeks.

(C) The Petition is disposed of accordingly.

(K.K.TATED, J.)