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

**APPEAL FROM ORDER NO. 148 OF 2020
WITH
INTERIM APPLICATION NO. 1 OF 2020**

Mohan Yashwant Kadam (Mhamunkar)

& ors.

..Appellants

vs.

Mangesh Mahadev Valanjoo & ors.

..Respondents

.....

Mr. Onkar V. Warange for the appellants/applicants.

Mr. Rohit Joshi for respondent Nos. 1 and 3.

.....

CORAM : M.S.KARNIK, J.

DATE : 16 MARCH 2020

P.C.:-

Heard learned counsel for the appellants and learned counsel for the respondent Nos. 1 and 3, who appears on instructions of the respondent Nos.1 and 3.

2. The challenge in this appeal is to an order dated 26 February 2020 passed by the District Judge – 4, Raigad-Alibag. The dispute is regarding the ‘Palakhi’ (Palanquin) which moves through the entire village during the celebration of the festival of Shreedevi Somjai Devsthan Palkhi Utsav. The Utsav would start on 10 March

2020 and end on 18 March 2020. The operative order passed by the District Judge reads thus :-

ORDER

- “1) Application (Exh.89) is partly allowed.
- 2) Defendant No.1 to 8 shall not obstruct plaintiffs and the villages of Shivaji Nagar to take part in the procession of Palkhi Utsav and perform Pooja and offer Naivedya to Shreedevi Somjai till 25/03/2020.
- 3) The plaintiffs and defendants are directed to start the procession in peaceful manner as per customs and traditions. The palanquin will move through entire village, Wadi and nobody will take palanquin into their house. They can perform Pooja when the palanquin is on the way.
- 4) The PI, MIDC police station, Mahad in whose jurisdiction the procession is going on must provide protection to palanquin and maintain public peace. The PI, MIDC police station, Mahad is also directed to make video recording of the procession at the costs of Devsthan. The copy of program of Palkhi Utsav Sohala annexed below Exh. 89 be supplied to police along with this order.
- 5) Sent copy of this order to all Police Station in whose jurisdiction the procession is going on.”

3. It is a matter of record that Exhibit 5 application is pending before the District Judge and the same is yet to be decided. The

respondents – plaintiffs had filed the suit restraining the appellants – original defendant Nos. 1 to 8 from obstructing or interfering with the rights of the plaintiffs from performing the Pooja and taking the palanquin around the entire village and also for other reliefs.

4. It is the contention of the parties that during the Utsav the palanquin moves in the entire village where the villagers offer their prayers and perform Pooja.

5. This appeal is opposed by the learned counsel for the respondent Nos. 1 and 3 and he supports the order passed by the District Judge.

6. I have gone through the order passed by the learned District Judge. Even in the year 2019 when the Palkhi Utsav was held and during the pendency of the suit a similar arrangement was made. Considering the law and order situation and with a view to avoid inconvenience to public at large the District Judge had issued directions in the form of interim arrangement.

7. It is the contention of the learned counsel for the appellants that it is a tradition and custom that the palanquin is decorated and the Pooja is first performed at the house of the appellant No.4 and then palanquin would proceed. Considering that tomorrow is

the date scheduled for the palanquin to move through the village, I am not inclined to interfere with the order passed by the District Judge.

8. However, as it is undisputed that even the appellant No.4 has a right to perform Pooja and offer prayers as the palanquin would pass through in front of the house of the appellant No.4 as well, considering the pleadings and the submissions made by the learned counsel for the appellants, in my opinion, it would be in the interest of justice if the palanquin is allowed to halt in front of the house of the appellant No.4 for a period of 45 minutes so as to enable the appellant No.4 to offer prayers and perform Pooja. It is not in dispute that the palanquin in any case proceeds from house to house within the village. The appellant No.4 would further strictly abide by the order dated 26 February 2020 in this appeal and as passed by the District Judge and ensure that the Pooja and the offerings are made in a peaceful manner.

9. The District Judge has already in clause 4 of the operative portion directed the PI, MIDC Police Station, Mahad to provide protection to the palanquin and maintain public peace. The PI, MIDC Police Station, Mahad to ensure that the appellant No.4 strictly abides by this order and in any case learned counsel for the appellant No.4 on instruction of the appellant No.4 states that he would abide by this order.

10. As the Exhibit 5 application is pending, I am inclined to direct the District Judge – 4, Raigad-Alibag to decide the application Exhibit 5 expeditiously and in any case preferably within a period of six months from today.

11. Subject to what is observed, the Appeal from Order is disposed of.

12. The parties to act on an authenticated copy of this order.

(M.S.KARNIK, J.)

Diksha
Rane

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signed by
Diksha Rane
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2020.03.16
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