

IN THE HIGH COURT OF JUDICATURE AT BOMBAY**CIVIL APPELLATE JURISDICTION****INTERIM APPLICATION NO. 3327 OF 2021****IN****APPEAL FROM ORDER NO. 431 OF 2021**

Great Eastern Gardens AB Condominium
& AB Board Members and Ors.

... Applicants/Appellants

V/s.

Dr.Madhuri Ajit Sawant and Anr.

... Respondents

Mr.Sanjeev Gorwadkar, Sr. Counsel i/b. Ms. Deepti B. Mistry for Applicants.
Ms.Yogini Abhay Ugale for the Respondents.

CORAM : A.S. GADKARI, J.

DATE : 8th DECEMBER, 2021.

PC. :

1. It is a matter of fact on record that, the Respondent No.1 being a medical professional and office bearer of Appellant No.1, during the COVID-19 Pandemic had requested/directed the members of its Condominium to collect the packets/pouches of milk from the lobby, so that the spread of virus can be reduced.

2. Upon her said request or directions, certain members of Condominium opposed her and threatened her. Some of the members of the Condominium also used derogatory words against her on WhatsApp. Respondent No.1 therefore lodged a non cognizable offence bearing NC Complaint No.882 on 13.03.2020 with Parksite Police Station, Mumbai.

3. The lodgement of the said N.C. Complaint No.882 of 2020 has been treated as an 'impulsive action' of Respondent No.1 by the Applicants/Appellants and therefore they called for Special Board meeting on 4th April 2020, passed resolution and removed Respondent No.1 from the post of Secretary. Respondent No.1 therefore filed present S.C. Suit (St.) No.3783 of 2020 before the City Civil Court, Greater Mumbai with prayers that, the said meeting of AB Condominium Great Eastern Gardens held on 4th April 2020 be declared as null and void; the Resolution dated 4th April 2020 may be declared as null and void and may be set aside along with other consequential reliefs. The Trial Court by its impugned Order dated 15th October 2020 has granted interim relief in terms of prayer Clause 'c1' of Notice of Motion No.1231 of 2020 in favour of the Respondent No.1.

4. It is the contention of Mr. Gorwadkar learned Senior Counsel that, the Board of Managers are entitled to conduct a meeting with or without cause and by a vote of majority can remove any Officer of the said Board. He submitted that, the Board of Managers had accordingly conducted the said meeting and removed the Respondent No.1 from the post of Secretary only. That, Respondent No.1 has not been removed from the Board of Managers as such and therefore there is no cause of action for her to file the said suit.

5. Perusal of Bye-Laws of the Great Eastern Gardens Condominium and in particular para No.25 indicates that, it was obligatory on the part of the

Appellant to give an opportunity of being heard to Respondent No.1 before her removal from the said post, which undoubtedly has not been done in the present case. Even otherwise, lodgment of NC complaint by the Respondent No.1 with the Police Station for the trauma suffered by her or the abuses advanced to her can not be construed as an 'impulsive action' to initiate such a drastic step of removal from the post of Secretary of the Condominium.

6. Perusal of impugned Order dated 15th October 2020 would indicate that, the Trial Court has taken into consideration various aspect of the matter while granting interim relief in favour of Respondent No.1. *Prima facie* there is no error in the said Order.

7. In view thereof, interim relief is rejected.

Interim Application is accordingly dismissed.

[A.S. GADKARI, J.]

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