

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.2569 OF 2021

Gopal Traders Private Limited Petitioners

Vs.

Sudarshan Malpani & Anr. Respondents

WITH

WRIT PETITION NO.2570 OF 2021

Gopal Traders Private Limited Petitioners

Vs.

Sudarshan Malpani & Anr. Respondents

Mr. Mayur Khandeparkar a/w Mr. Nakul Jain, Ms. Neuty N. Thakkar i/by
Tushar Goradia for Petitioners in both Petitions.

Mr. Prasad Dani, Senior Counsel a/w Mr. Dakshesh Vyas i/by Amol V.
Kumeria for Respondent No. 1 in WP No. 2569 of 2021.

Mr. Dakshesh Vyas i/by Abhishek Prabhu for Respondent No.1 in WP
No. 2570 of 2021.

Mr. Sanjay Jain a/w Nivit Srivastava and Animesh Singh for Maniar
Srivastava Associates for Respondent No. 2 in both Petitions.

Coram : NITIN W. SAMBRE, J.

Date : 8th JULY, 2021

P.C.:

1. Parties agree that both these petitions can be disposed of by this common order and for the convenience, the facts of Writ Petition No. 2569 of 2021 are taken into consideration.
2. Heard Mr. Khandeparkar, learned Counsel appearing for the Petitioners.
3. In a Suit for permanent, prohibitory, mandatory injunction, Chamber Summons were taken out for amendment and impleadment of party in the plaint, which came to be allowed by the impugned order dated 18th June, 2021 passed by learned City Civil Court.
4. The submissions of Mr. Khandeparkar are, the prayer for amendment is based on such factual matrix, which can be borne out of record to be incorrect. According to him, the amendment in that view of the matter was not justified particularly when the alleged Trustees, whose impleadment is permitted are not having any such status. He would invite my attention to Schedule "A" maintained under the Maharashtra Public Trust Act, which reflects the names of recorded Trustees and not that of newly added parties.

5. Mr. Dani, learned Senior Counsel appearing for Respondent No. 1 in Writ Petition No.2569 of 2021 would oppose the claim and supports the impugned order.

6. I have perused the impugned order.

7. The Plaintiff is *dominus litis*, who intended to carry out amendment. Trial in the Suit is yet to be commenced. Apart from above, the fact remains that this Court is not required to examine the truthfulness of the plea at this stage, as it is for the Court below to consider the same having regard to the pleadings of the rival parties. That being so, no case is made out in extra ordinary jurisdiction of this Court to any indulgence.

8. As a consequences, both the Writ Petitions stand dismissed.

(NITIN W. SAMBRE, J.)