

IN THE HIGH COURT OF JUDICATURE AT BOMBAY**CIVIL APPELLATE JURISDICTION****APPEAL FROM ORDER NO. 241 OF 2021
WITH
INTERIM APPLICATION NO. 2255 OF 2021**

Pant Nagar Perarl Co-Op.Housing Soc. Ltd. & Anr. ... Appellants
V/s.
Smt. Dariya Devi Nirmal Kothari ... Respondent

Mr.Pradeep Thorat a/w. Ms.Rekha Shinde i/b. Legal Chartered for Appellants.
Mr.A.M. Saraogi for Respondent.

CORAM : A.S. GADKARI, J.
DATE : 20th October 2021.

PC. :

1. Heard.
2. Arguable questions are made out.
Admit.
3. On 20th September 2021, learned counsel for Respondent in open Court had made a statement that, the Respondent has been granted permission by the Appellant-Society to use residential premises for commercial purpose. The Respondent was therefore directed to file an Affidavit placing the said fact on record. The Respondent has accordingly filed an Affidavit dated 23rd September 2021.

4. Perusal of said Affidavit dated 23rd September 2021 would indicate that, except making such a categorical averment on oath all other submissions have been made in Affidavit.

Learned counsel for Respondent tried to point out various documents which are in the nature of contemporaneous evidence to contend that the Appellant-Society has infact permitted the Respondent to use her premises for commercial purpose.

The record indicates that, till date the Appellant-Society has not granted permission to the Respondent to use residential premises for commercial purpose.

5. As noted earlier, for want of specific permission from the Appellant-Society to the Respondent to permit her to use the suit premises for commercial purpose, her said contention cannot be accepted.

6. In view thereof, the Appellant-Society has made out a strong prima-facie case to grant interim relief.

Interim relief in terms of prayer Clause (a) of Interim Application No.2255 of 2021 during the pendency of the Appeal is granted.

7. Interim Application No.2255 of 2021 is accordingly disposed off.

[A.S. GADKARI, J.]