

IN THE HIGH COURT OF JUDICATURE AT BOMBAY**CIVIL APPELLATE JURISDICTION****APPEAL FROM ORDER NO. 395 OF 2021
WITH
INTERIM APPLICATION NO. 3204 OF 2021**

The Salsette Catholic Co-Op.
Housing Society Ltd. & Ors.

... Appellants

V/s.

The Bandra Gymkhana & Ors.

... Respondents

Mr.Ashish Kamat i/b. Mr.Brian Dlima for Appellants.

Mr.Vishwajeet Sawant, Senior Advocate i/b. Ms.Sutapa Saha for Respondent
Nos.1 to 9 and 13 to 15.

CORAM : A.S. GADKARI, J.

DATE : 13th December 2021.

PC. :

1. The Trial Court by its impugned Order dated 24th September 2021 passed in Draft Notice of Motion in S.C. Suit No. 2039 of 2021 has refused to grant ad-interim relief in favour of the Appellants. Record indicates that, the said Draft Notice of Motion has now been numbered as Notice of Motion No. 2330 of 2021.

2. In view of the peculiar facts involved in the present Appeal, it would be appropriate to direct the learned Judge of the Trial Court seized of Notice of Motion No.2330 of 2021 in S.C. Suit No. 2039 of 2021 to hear and

decide the said Motion as expeditiously as possible and preferably within a period of five weeks from the date of receipt of present Order.

3. Mr.Kamat, learned counsel for Appellant, on instructions, submitted that, in view of subsequent events which took place after 24th September 2021, i.e. passing of the impugned Order, the Appellants will file an application for amendment of the plaint before the Trial Court by filing a Chamber Summons. He submitted that, the Appellants also intend to file a fresh Notice of Motion for further reliefs in the said Suit.

4. It is needless to mention that, the Respondents/Defendants are at liberty to oppose the said Applications/Chamber Summons/Notice of Motion including the present Notice of Motion on its own merits.

5. If the Appellants file an application for amendment of plaint, the learned Judge seized of S.C. Suit No. 2039 of 2021 is requested to consider the said application along with present Notice of Motion on its own merits and by granting an opportunity to the Respondents/Defendants of being heard in the matter.

6. Appeal is disposed off in the aforesaid terms.

7. In view of disposal of Appeal, Interim Application No. 3204 of 2021 does not survive and is accordingly disposed off.

[A.S. GADKARI, J.]