

S.S.Kilaje

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
O.O.C.J.**

**NOTICE OF MOTION NO. 675 OF 2019
IN
APPEAL NO. 367 OF 2019
IN
NOTICE OF MOTION NO.1454 OF 2019
IN
SUIT NO.832 OF 2019**

Coliseum Co-operative Premises Society
Limited .. Applicants

In the Matter of :

Coliseum Co-operative Premises Society
Limited .. Appellants

Versus

Jagshi Jethabhai Chheda & Ors. .. Respondents

- Mr. Aspi Chinoy, Senior Advocate a/w. Mr. Sarosh Bharucha, Mr. Bhushan Shah, Ms. Palak Patel and Mr. Rishab Jain i/by Mansukhlal Hiralal & Co. for Applicants / Appellants
- Mr. Pradeep Sancheti, Senior Advocate a/w. Mr. Rajiv Singh, Mr. V.S.Vengurlekar i/by Nair Vengurlekar & Co. for Respondent Nos. 1 and 3
- Ms. Dimple Vora i/by Markand Gandhi & Co. for Respondent No.2

.....

**CORAM : S. J. KATHAWALLA &
MILIND N. JADHAV, JJ.**

DATE : MARCH 19, 2021.

P.C.:

. By the above Appeal the Appellant has impugned the Order dated 30.04.2019 passed by the learned Single Judge which is reproduced hereunder :

"1. Notice of Motion to be listed for hearing in due course. The arrangement continued till today, shall be continued further.

2. Registry to take on record the reply and the rejoinder.

Defendants are permitted to file sur-rejoinder.

3. Within 4 weeks, applicant to remove all office objections in respect to the Notice of Motion as well as Suit, failing which, both, Notice of Motion and Suit will get dismissed for non removal of office objecting without further reference to the Court."

2. Though the impugned Order without specifying any particulars of the 'arrangement' directs the 'arrangement' to be 'continued further', in para - 3 of the affidavit in support of the Notice of Motion, the Appellant Society itself has explained the 'arrangement' as under :

"3. I say that the Impugned Order records an arrangement between the members of the Society and the Respondent No.1 and 3, whereby the Suit Property being the Adjacent land to the land on the which the Appellant Society stands as on today, is being used as parking spaces of the members of the Appellant Society for a monetary consideration."

3. Since the 'arrangement' as explained by the Appellant has continued from the date of the ad-interim Order, till date i.e. during the last two years, we do not intend to pass any other order in the above Appeal, save and except requesting the learned Single Judge to dispose of the Notice of Motion within a period of 12 weeks, excluding the summer vacation.

4. The Appeal as well as the Notice of Motion are accordingly disposed off.

(MILIND N. JADHAV, J.)

(S. J. KATHAWALLA, J.)