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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

WRIT PETITION NO. 12 OF 2024

Jeevan Bhupal Pakhare and Anr. .. Petitioners

Versus

Kolhapur Municipal Corporation
Through its Commissioner and Ors. .. Respondents

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- Mr. Rahul P. Kasbekar i/by Mr. Bhooshan Mandlik, Advocate for Petitioners.
 - Mr. Abhijit M. Adagule, Advocate for Respondent Nos.1 and 2.
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CORAM : MILIND N. JADHAV, J.

DATE : JANUARY 08, 2024.

P.C.:

1. Heard Mr. Kasbekar, learned Advocate for Petitioners and Mr. Adagule, learned Advocate for Respondent Nos.1 and 2.

2. This Writ Petition takes exception to the order dated 19.10.2023 passed by the Civil Judge, Senior Division, Kolhapur for seeking amendment to the Suit plaint.

3. Briefly stated, the Suit was filed by the Plaintiff to protect a shoe stand adjacent to the temple's southern door and ad-measuring 20 ft. X 13 inch. and having 6.5 ft. height. Admitted position borne out from the record is that pursuant to Application made by predecessor-in-title of Plaintiff the Respondent No.3 – Committee permitted operation of the shoe stand initially for a period of 11

months and thereafter passed a specific resolution being Resolution No.393 enabling the Plaintiff's predecessor-in-title to continue to operate to the shoe stall.

4. It is seen from the record that an amount of Rs.1,000/- was paid as Anamat for the aforesaid. Respondent Nos.1 and 2 are the Kolhapur Municipal Corporation and Anti-Encroachment Officer / Department of the Corporation. They are represented by Mr. Adagule before me today. None appears for the Respondent No.3 – the Devasthan Managing Committee.

5. I am informed that the present Petition is listed for the first time today. Since a caveat was filed by the Kolhapur Municipal Corporation, the learned Advocate is present today.

6. One striking fact which needs to be mentioned is that until October, 2023 the admitted position was that the Plaintiff was operating the shoe stall from the same place and near the southern door until October, 2023 and due to the plausible reason of security and/or inconvenience the Plaintiff's shoe stand was thereafter removed from the designated place where it had operated all these years.

7. Hence, issue notice to the Respondents. Humdast permitted.

8. In addition to Court notice, Petitioners are directed to serve copy of the Petition and this order on the Respondents and inform

them about the next date of hearing by any permissible mode of service and file appropriate Affidavit of service with tangible proof thereof on or before the next date.

9. Respondents are directed to file their Affidavit-in-Reply on or before the next adjourned date.

10. Stand over to **29th January, 2024.**

[MILIND N. JADHAV, J.]

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