

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION

SUIT NO. 2335 OF 2012

Darryl Dmonte

...Plaintiff

Vs.

Saint Peters Church and Ors.

...Defendants

WITH
INTERIM APPLICATION NO. 3212 OF 2026

Mr. Vishal Kanade with Mr.Mukul Taly, Ms. Mallika Taly i/b S. Mohomedbhai & Co. for the Plaintiffs/ Applicant.

Ms. Rohini S. Pandit for the Defendants No. 1 and 2.

Mr. Kevin Gala for the Defendant No.3.

CORAM : ABHAY AHUJA, J.

DATE : 16th JUNE, 2026

PC. :

Interim Application No. 3212 of 2026

1. Learned Counsel appearing for the Plaintiff and for the Defendants No. 1 and 2 and the Defendant No. 3 submit that the Interim Application can be worked out by directing that the evidence already led by the Plaintiffs and the Defendants on the preliminary issue of limitation be considered along with the evidence to be led on other issues in the Suit at the time of final disposal of the Suit itself in view of the decision dated 8th March, 2021 of this Court in Appeal No. 79 of 2020 in the Notice of Motion No. 19 of 2020 in view of the Apex Court's decision in the case of *Nusli Neville Wadia Vs. Ivory Properties*

*and Ors.*¹

2. Even though other Defendants have been served they are not represented today.

3. Having heard the learned Counsel and having considered their submissions, this Court allows Interim Application in terms of prayer Clauses (A) and (B), which read thus:-

“(A) To order and direct that the evidence already led by the Plaintiff’s Witness (PW1-Darryl D’Monte) including the Affidavit in Lieu of Examination in Chief dated 26.06.2014 and the cross-examination fo PW 1 be considered along with evidence to be led on other issues in the suit, at the time of final disposal of the suit itself.

(B) To order and direct that the documents marked in evidence by the order dated 18.12.2014 be considered along with evidence to be led on other issues in the suit, at the time of final disposal of the suit itself.”

4. The Interim Application accordingly stands allowed and disposed as above.

Suit No. 2335 of 2012

5. In view of the order passed today in Interim Application No. 3212 of 2026, as regards the evidence led by the Defendants No. 3 and 7, the following order is passed:-

¹ (2020) 6 SCC 557.

ORDER

(i) As regards the Defendant No. 3's witness (DW-1- Norman D'Monte) and the Defendant No. 7's witnesses (DW-2- Mahindra P. Rawl and the DW-3-Sunil Jaisingh), their respective affidavits in lieu of examination-in-chief and their respective cross-examination and the documents marked in evidence by order dated 18th December, 2014 and the order dated 19th November, 2016 and the order dated 10th April, 2017 in the present Suit be considered along with evidence to be led on other issues in the Suit, at the time of final disposal of the Suit itself.

(ii) That the Plaintiffs be permitted to file an affidavit in lieu of examination-in-chief of the Plaintiffs' second witness along with affidavit and compilation of documents duly indexed and paginated and serve the same upon the Defendants along with list of Plaintiffs' witnesses within one week from today.

(iii) Discovery and inspection be completed within a period of two weeks.

(iv) Let the statement of admission and denial be filed thereafter within a period of two weeks with copy to the other side.

6. List for marking of Plaintiffs' 2nd witness's documents on **29th July, 2026.**

7. Let the Plaintiffs' 2nd witness remain present in the Court on the next date.

(ABHAY AHUJA, J.)

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