

IN THE COURT OF HON'BLE CIVIL JUDGE SENIOR
DIVISION PUNE AT PUNE

SPECIAL CIVIL SUIT NO. 583 OF 2024

SAMEER HIREMATH & ANR

...PLAINTIFFS

VERSUS

BABASAHEB NEELKANTH KALYANI

AND ORS.

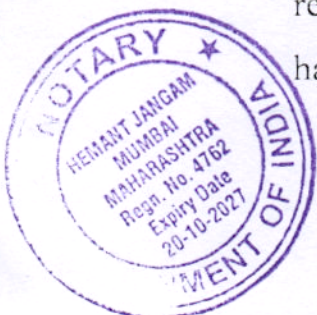
...DEFENDANTS

APPLICATION UNDER ORDER
VI RULE 17 OF THE CODE OF
CIVIL PROCEDURE

Herein the Application filed by and on behalf of the Plaintiffs is as under:

1. The Plaintiff has filed the present Suit *inter alia* for declaring the Plaintiffs as co-parceners, partition of the ANK HUF and the NAK HUF, which are for the sake of convenience jointly referred to as the "Kalyani Family HUF" and such other ancillary reliefs as prayed for in para 47 of the Plaint and other reliefs more particularly set out therein.

2. It is submitted that the Plaintiffs, being the children of Defendant No. 6 (*who does not have any information or access to the documents related to the Kalyani Family HUF*) and ordinarily residing in Mumbai, did not and even on the date hereof do not have access to any of the documents related to the Kalyani Family



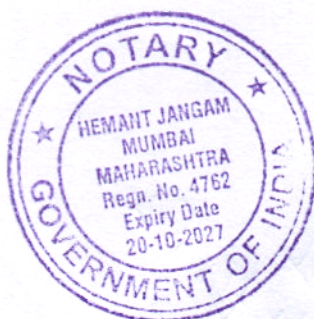
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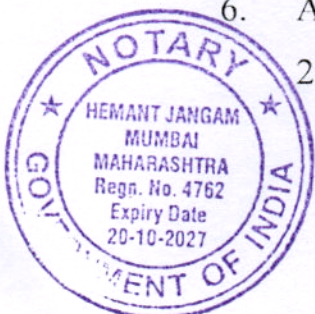
HUF, which has been in existence since the time of their great-grandfather Shri Annappa Narayan Kalyani. All the relevant financial and property documents were in the control and custody of Defendant No.1 as Karta.

3. It is stated that while filing the present suit, the Plaintiff had enlisted the businesses, investments and properties of the Kalyani Family HUF limited to the knowledge of the Plaintiffs. In view thereof, the Plaintiffs had sought reliefs in the nature of disclosures to be made by the Defendants.
4. Rather than providing true and correct disclosures with respect to the businesses, investments and assets of the Kalyani Family HUF, Defendant No. 1 filed an Application under Order IV R. 1(3) r/w Section 151 of the CPC seeking deregistration of the present suit *inter alia* on the ground that the immovable properties mentioned therein are allegedly described in an vague manner and without proper description. The Plaintiffs submits that the particulars of the immovable properties as mentioned in the plaint are not in any manner vague or improperly described. However, the Plaintiffs are carrying out the present amendment to provide further and better particulars of the properties mentioned in the annexures to the plaint procured by the Plaintiffs after the filing of the present suit through further investigation into the properties, which are presently held by the members of the Kalyani family.



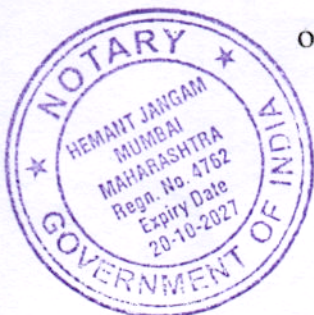
5. On going through the applications filed by the Defendants, as well as the reply filed by Defendant Nos. 1 & 2 to the Exhibit 5 Application, the Plaintiffs felt that going through a mediation process to resolve the dispute would be a good option. Therefore, the Plaintiffs made a request to the Hon'ble Court on 22 July 2024 to refer the matter to mediation, as the dispute concerns a reputed family. The said request, made orally as well as in writing, was instantaneously opposed by Defendant No. 1, overtly on the ground that the Plaintiffs had no locus to maintain such a suit. Apparently, the instantaneous refusal for mediation also had its base to the conception in the mind of Defendant No. 1 that he is a successful businessman and has secured various laurels during his career and has single handedly built the Kalyani business. The instant reaction of refusal spoke volumes on the apparent attitude of Defendant No. 1 and also created the apprehension in the mind of the Plaintiffs as to the success of the mediation process as Defendant No. 1 has always valued his position and success as well as laurels more than the relationships. Despite the instant refusal, this Hon'ble Court, in its wisdom, found it proper to refer the matter to mediation. Considering the fact that all family members and close relationships are involved, the Plaintiffs remained hopeful that once the matter is referred to mediation, the parties to the suit could find an amicable way to resolve various pending disputes.

6. Accordingly, the present suit was referred to mediation on 22 July 2024 and was not to be heard by this Hon'ble Court during the



mediation process. The Plaintiffs, accordingly, waited to carry out the present amendments during the mediation process in the hope that the present family matter be resolved and amicably settled through mediation.

7. The Plaintiffs are, therefore, now constrained to continue with the present suit owing to the failure of the mediation process.
8. It is submitted that the present suit has the prayer in respect of the coparcenary rights of the Plaintiffs and also contains the lists of the assets and businesses to the extent of the knowledge of the Plaintiffs at the time of filing of the present suit. It was mentioned in the Plaint that the list of assets and businesses mentioned therein is not an exhaustive list and only to the extent known to the Plaintiffs. The Plaintiffs had already reserved their right to carry out amendments to the Plaint, as and when necessary.
9. By the present amendment, the Plaintiffs are only better describing, compiling and/or adding to the properties, businesses, assets and funds of the joint family to the extent discovered in the course of the search being carried out by the Plaintiffs. Therefore, there is no change in the nature of the suit. However, given the large number of investments that have been made over the years from the nucleus of joint family funds, it is impossible for the Plaintiffs to set out an exhaustive list of the Kalyani Family HUF assets. The Plaintiffs have, accordingly, sought reliefs in the nature of disclosures to be made by the Defendants and also seek leave to



further amend the plaint and /or file any other documents as and when required.

10. Thus, the present amendment ought to be allowed and no loss or prejudice would be caused to any of the parties to the present suit by way of the present amendment.
11. It is imperative that during the pendency of this amendment application and even during the pendency of the hearing and final disposal of this Suit, the assets of the Kalyani Family HUF, both movable and immovable, be protected by an order of injunction restraining the Defendants from in any manner dealing with the assets / properties of the Kalyani Family HUF, including and not limited to exercising any voting rights on the shares belonging / forming part of the nucleus of the Kalyani Family HUF. Gross prejudice and loss will be suffered by the Plaintiffs if these assets are not secured during the pendency of the proceedings as the Defendants have repeatedly transferred these assets to the detriment of Plaintiffs and there will no properties left in the HUF.
12. The Plaintiffs propose to carry out the following amendments:
 - (a) Annexures A, B and E to the Plaint be substituted and replaced with the Annexures "A", "B" and "E" respectively, as annexed hereto.
 - (b) After the words "any third party rights in the properties of the HUF" in the last line of para 40, the following to be added –



“including and not limited to exercising any voting rights on the shares of the entities which commenced from the funds / nucleus of the aforesaid HUFs. Gross prejudice and loss will be suffered by the Plaintiff if these assets are not secured during the pendency of the proceedings as the Defendants have repeatedly transferred these assets to the detriment of Plaintiff and there will no properties left in the HUF.”

(c) The following be added as Prayer nos. (h1) and (h2)

“(h1) Pending the hearing and final disposal of the present suit, the Defendants be directed to exercise voting rights in accordance with the wishes of the family and as per the directions / orders of the Court”.

“(h2) Alternatively, pending the hearing and final disposal of the present suit, an administrator be appointed with the right to exercise voting rights in the best interest of the coparcenary and as per the directions and/or orders of the Court”.

13. It is, therefore, prayed that:

- a. the Plaintiff be permitted to carry out the amendments in the Plaint, as stated in para nos. 12 (a) to (c) above.

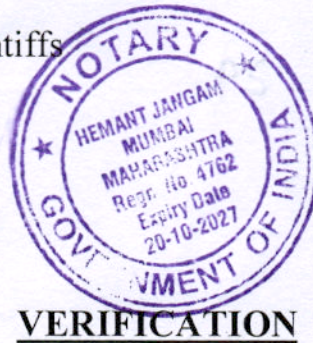


b. Any other just and equitable order may kindly be passed in favour of the Plaintiffs.

Pune 16 OCT 2024
Dated:

[Signature]

Advocate for the Plaintiffs



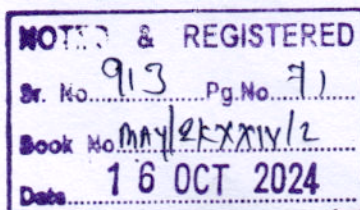
Sameer Hiremath

Plaintiff No. 1
(Sameer Jai Hiremath)

P. Swadi

Plaintiff No. 2
(Pallavi Anish Swadi)

We, (1) Sameer Jai Hiremath, Age: 50 years, Occupation: Business, having address at: 292, Jupiter Apartment, 41 Cuffe Parade, Mumbai 400 005 i.e. the Plaintiff No. 1 and (2) Pallavi Anish Swadi, Age: 48 years, Occupation: Business, having address at: A-6, Ananta Rajabali Patel Marg, Mumbai – 400 026 i.e. Plaintiff No. 2, do hereby state on solemn affirmation that whatever stated hereinabove in paragraph nos. ...1... to ...13... is true and correct to the best of our knowledge, belief and information in witness whereof we have set my hand on this 16th day of October 2024 at Mumbai.



Sameer Hiremath
Plaintiff No. 1
(Sameer Jai Hiremath)

P. Swadi
Plaintiff No. 2
(Pallavi Anish Swadi)

