

Amberkar

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 7236 OF 2021

Shivsamarth Seva Sangh & Ors.

.. Petitioners

Versus

M/s. Tayabji Estate Private Ltd & Ors.

.. Respondents

WITH
COURT RECEIVER REPORT NO. 7 OF 2022
WITH
INTERIM APPLICATION NO. 16493 OF 2023

-
- Dr. Uday Warunjikar a/w Mr. Bhushan Bhadgale i/by Mr. R.P. Lote for Petitioners
 - Mr. J.P. Sen, Senior Advocate a/w Mr. Narayan Sahu & Mr. Shrinivas Mudaliar for Respondent Nos. 1 and 2
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CORAM : MILIND N. JADHAV, J.

DATE : AUGUST 13, 2024

P. C.:

1. Heard learned Advocates appearing for the parties.
2. By virtue of the impugned order, impleadment of Petitioners who is an Association of 19 persons residing in one of the Suit property to the Suit plaint has been rejected. Petitioners submit that they are occupants of the said property and are aggrieved with prayer clause (c) in the Suit plaint filed by Plaintiffs before the Trial Court since it directly affects them. Suit is filed for seeking declaratory relief, injunctive relief and relief of possession against several Defendants in respect of various properties. If Applicant's members

are concerned with one such Suit property in any manner, it may be implied that their presence would be necessary, but Mr. Sen, learned Senior Advocate for Plaintiffs in the Suit would submit that the occupants of the said Suit property in respect of which prayer clause (c) is made have filed an undertaking to the effect that they shall abide by the orders passed in the Suit proceedings and their occupation on the said property will be subject to the outcome of the Suit proceedings. Hence according to him their presence in the Suit is not at all necessary. Dr. Warunjikar would clarify that the Suit property is *custodia legis* much prior to the filing of the Suit and this undertaking has indeed been filed by all occupants before the Court Receiver. Copy of the undertaking is placed on record in the affidavit in reply. Same shall be considered adequately by this Court including the issue of the impleadment under O. 1, R. 10(1) read with R. 10(2) of the CPC. Court Receiver has also filed a Report which is pending hearing in the Petition and certain directions have been issued for carrying out repairs to the structures of these 19 occupants on the Suit property. I will hear the Plaintiff on this on the next date.

3. Stand over to 20th August, 2024 at 2:30 p.m.

[MILIND N. JADHAV, J.]

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by RAVINDRA
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