

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
INTERIM APPLICATION (L) NO. 3846 OF 2020
IN
SUIT NO. 96 OF 2023**

Hubtown Solaris Premises Co-Operative Society
Ltd.

...Applicant

Versus

Municipal Corporation of Gr. Mumbai And 8 Ors.

...Respondents

**WITH
CONTEMPT PETITION NO. 9 OF 2024
IN
INTERIM APPLICATION (L) NO. 3846 OF 2020
WITH
INTERIM APPLICATION (L) NO. 12328 OF 2021
IN
INTERIM APPLICATION (L) NO. 3846 OF 2020
WITH
INTERIM APPLICATION (L) NO. 8953 OF 2022
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INTERIM APPLICATION (L) NO. 3846 OF 2020
WITH
INTERIM APPLICATION (L) NO. 16165 OF 2021
IN
SUIT NO. 96 OF 2023**

Mr. Bhavik Lalan a/w *Ms. Pragya Chandak, Ms. Arunima Phadke i/b Cyril Amarchand Mangaldas, for the Plaintiff.*

Ms. Niyati Merchant i/b *MDP Legal, for the Defendant Nos.5 and 6.*

Mr. Sunil C. Khandagale i/b *Komal Punjabi, for Respondent-BMC.*

Mr. Himanshu Takke, A.G.P., for Defendant Nos.11, 12, 13 and 14.

Mr. Vishal Mahabale, Ward Inspector, AA&C K/East Ward, is present.

Mr. Nikhil Gunjal, Sub-Engineer, Water Works K/East Ward, is present.

CORAM : SOMASEKHAR SUNDARESAN, J.

DATE : MARCH 12, 2026

ORDER :

1. By an order dated September 8, 2025, a Learned Single Judge of this Court made it clear that on the next date of hearing the Court would first adjudicate upon the Interim Application (L) No. 16165 of 2021 (***“IA-16165”***), followed by Interim Application (L) No. 22163 of 2021 (***“IA-22163”***), Interim Application (L) No. 12328 of 2021 (***“IA-12328”***) and Interim Application (L) No. 3846 of 2020 (***“IA-3846”***).

2. Learned Advocate for Defendant Nos. 5 and 6 seeks an adjournment indicating that she is being led by another Advocate and would ask for the matter to be stood over to a future date.

3. Having examined the scope of the Interim Applications, it is considered appropriate to first take up IA-16165 for consideration, which essentially aims only at making amendments so as to bring on record developments subsequent to the filing of the Suit. In my opinion, such amendments would only put the counterparty to notice of the case sought to be pursued by the Plaintiff.

4. Considering the stage at which the amendments have been proposed, i.e. at the pre-trial stage, it is well settled that the approach to amendments must not be hyper-technical and must be liberally considered. That apart, by allowing the amendments, all that would come about is that the Defendants are put to notice of such amended pleadings, and they would be able to address with the same. In that context, the amendments include changes to correct an address; pleadings in connection with the handing over of common areas and certain essential documents relating to utility services, such as electricity bills, water bills and a No Objection Certificate from the fire authorities; contentions relating to property tax liabilities and the

Architect's report on purported non-compliance; correspondence relating to the alleged creation of third-party rights; operationalising of parking places and the like, which are all incidental to the proceedings.

5. Bearing in mind the stage at which the matters are, in my opinion, allowing the amendment will cause no prejudice whatsoever to the Defendants. That apart, they would still have the opportunity to deal with the amendments that have been allowed, since all that the amendment does, is put them in notice of the contents of such amendments.

6. Learned Advocate for the Defendant Nos.5 and 6 submits that the amendments sought in IA-16165 would lead to a change in the cause of action and, therefore, the same ought not to be allowed. When one examines the Affidavit in Reply to IA 16165, it is seen that one amendment is opposed as constituting an effort to undertake execution of an earlier *ad interim* order because although it admittedly relates to a subsequent event, it relates to events that occurred *pursuant* to such *ad interim* reliefs. Other amendments are objected to with submissions being made on Plaintiff's actions being wrong and are on merits, which can always be adjudicated in the Suit after the amendment – what is clear is that they are subsequent events.

7. It is also contended that a plan sanctioned by the Slum Rehabilitation Authority cannot be adjudicated upon in the Suit. The amendment would not prevent adjudication of this contention since all the amendments would do is to put these Defendants to notice of such events. Other amendments are opposed on the basis that they are premature or are unnecessary. This too does not appeal to me as a credible basis to prevent amendments.

8. The pleadings in the affidavit in reply do not lend themselves to accepting a contention that the cause of action itself would undergo a change. As stated earlier, the amendments would only enable these Defendants to make their submissions on merits in any case and allowing the amendments does not mean the contents are accepted as proved.

9. Therefore, IA-16165 is allowed and ***disposed of***. The amendments may be carried out and the amended plaint shall be served on all the Defendants, within a period of two weeks from the upload of this Order on the Court's website.

10. IA-22163 has been taken out to bring on record new members of the Society, who are the unitholders on the 6th and 13th floors. In view of the Applicants seeking membership of the society

having been purchasers of units on the 6th and 13th floor, their application for membership of the Society is pending. But it is clear that these persons have acquired units subsequent to the filing of the Suit. Therefore, IA-22163 is also allowed and **disposed of**, permitting impleadment of these parties.

11. IA-12328 is an application by Defendants No. 5 and 6, seeking directions in relation to appointment of a Chartered Accountant, with fees of such Chartered Accountant being confirmed by this Court. Learned Advocate for the Plaintiff has tendered a list of three Chartered Accountants to the Advocate for Defendant Nos. 5 and 6, who will take instructions in this regard. IA 12328 is stood over to the next date to deal with submissions to be made on getting such instructions.

12. IA-3846, being an application seeking interlocutory relief, the request for adjournment in this regard is accepted.

13. The Defendants shall be at liberty to file a supplementary affidavit to deal with the merits of the amendments hereby allowed. Such affidavit shall be filed prior to the next date of hearing.

14. List all the proceedings not disposed of by this Order, along with IA-3846, on **April 15, 2026**.

15. All actions required to be taken pursuant to this order shall be taken upon receipt of a downloaded copy as available on this Court's website.

[SOMASEKHAR SUNDARESAN, J.]