



**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
IN ITS COMMERCIAL DIVISION
INTERIM APPLICATION (L) NO. 35593 OF 2025
WITH
INTERIM APPLICATION (L) NO. 21968 OF 2024
WITH
INTERIM APPLICATION (L) NO. 21969 OF 2024
IN
COMMERCIAL SUIT (L) NO. 21875 OF 2024**

L & T Crescent Bay T6 Co-operative
Housing Society Ltd. And Anr.

...Applicants

In the matter between :

L & T Crescent Bay T6 Co-operative
Housing Society Ltd. And Anr.

...Plaintiffs

Versus

L&T Parel Project Private Limited and Ors.

...Defendants

WITH

INTERIM APPLICATION (L) NO. 31641 OF 2024

IN

COMMERCIAL SUIT (L) NO. 21875 OF 2024

L&T Parel Project Private Limited and Ors.

...Applicants

Versus

L & T Crescent Bay T6 Co-operative
Housing Society Ltd. And Anr.

...Respondents

Mr. Saket More, a/w Ms. Shrushti Thorat, Mr. Raghav Taneja, Ms. Fatema Kothari, Mr. Archit Sai , for the Petitioners.

Mr. Darpan Gupta, h/f Mr. Anoop Patil, for Defendant No.5-SRA.

Mr. Yashesh Kamdar, a/w Mr. Prashant Phophale i/b PMH



Law, for Defendant No.1.

Mr. Bhushan Deshmukh, a/w Adv. Noorain Patel i/b Diamondwala & Co., for Defendant Nos. 2 to 4.

Ms. Nidhi Singh, a/w Mr. Brian Noronha i/b INDIALAW LLP, for Defendant Nos.6 to 9.

Mr. Zal Andhyarujina, Senior Advocate a/w Mr. Chirag Kamdar, Ms. Maithili Parekh, Ms. Jasmine Kachalia, Mr. Viren Mandhle, Mr. Sahil Singh i/b Wadia Ghandy, for Defendant No.12.

CORAM : SOMASEKHAR SUNDARESAN, J.

DATE : JANUARY 28 , 2026

ORDER:

1. Interim Application (L) 35593 of 2025 is an application seeking amendment of the plaint in this Suit, and in two pending Interim Applications (*Interim Applications (L) Nos. 21968 of 2024 and 21969 of 2024*), in order to add certain pleadings; prayers and certain exhibits which are set out in Exhibits “B”, “C” and “D”.

2. The application for amendment is opposed, with written replies filed by Defendant Nos. 1, 2 and 12.

3. Heard Learned Advocates for the parties and, with their assistance, examined the application and related records. On the face of it, it is seen that three applications seeking impleadment of parties came to be allowed by an order dated October 22, 2024. Defendants No. 10, 11, and 12 have been impleaded by allowing their own applications



contending that adjudication of the suit would affect their interests and they ought to be heard.

4. It is stated that when those three applications were being considered and allowed, draft amendments were tendered by the Applicant-Plaintiff across the bar, which were resisted by the Defendants, among others, on the ground that a formal application would be necessary for the purposes of Order VI Rule 17 of the Civil Procedure Code, 1908 (“**CPC**”). Interim Application (L) No. 35593 of 2025 is such application.

5. Having heard the objections to allowing the amendments, it is apparent that the primary objection to the amendment is that it purports to change the very nature of the cause of action by introducing a relief against the Letter of Intent (LOI) dated February 01, 2019, which had been issued originally to the common promoter of Defendant Nos. 2, 3 and 4, Omkar Realtors and Developers Pvt. Ltd. (“**Omkar**”).

6. . It is common ground that Defendant No. 2, 3 and 4 had merged and amalgamated three different slum rehabilitation and redevelopment schemes and were implementing construction activity on the suit property. Omkar was replaced by Defendant No. 12. The Plaintiffs submit that the redevelopment now being carried out by Defendant No. 12 is on an area of land, hereinafter referred to as



“Recreational Ground-3” in the plans attached to agreements executed with the Plaintiffs under the Maharashtra Ownership Flats (Regulation of the Promotion of Construction, Sale, Management and Transfer) Act, 1963 (*“the MOFA”*).

7. The core cause of action pursued in the Suit is that the plans annexed to the statutory MOFA agreements are sacrosanct and any amendments to the same would have needed the prior consent of the Plaintiffs, and therefore, the development pursuant to the plans annexed to the MOFA agreements must be enforced. Therefore, it is contended that the use of Recreation Ground-3, now being developed with a building of 70 floors, is violative of the rights of the Plaintiffs, and therefore, the amendments to the plaint in a Suit seeking reliefs against such development is justified.

8. When seen in that light, the perception of a frontal attack being launched for the very first time against the LOI dated February 01, 2019, as claimed on behalf of the resisting Defendants is undermined. It cannot be said that the amendments and that too against Defendant No. 12, who sought to be impleaded, is completely alien to the cause of action pursued in the Suit. Learned Advocate for the Applicant-Plaintiff points to prayer clauses (a), (b), (f) and (g) in the plaint, which would point to various reliefs which would lead to a reasonable inference that



they bring within their ambit an attack on all sanctions and approvals affecting the rights of the Plaintiffs.

9. In these circumstances, I am not convinced by the Defendants' contention that the pre-trial amendments sought are entirely alien and foreign to the plaint, or that it creates a completely new cause of action different in nature or substantive content from the original plaint, is warranted.

10. Likewise, another objection is raised on the ground of limitation and delay. It is stated that the LOI was issued way back in 2019 and that an explicit amendment referring to it today would be barred by limitation. This is countered on behalf of the Plaintiffs on the premise that a statutory violation represents a continuing cause of action, therefore, the amendment would not give new life to a claim barred by limitation. This is in addition to the contention that the existing prayers could bring within their ambit a challenge to all approvals relating to the development on the Recreational Ground-3.

11. Needless to say, all these are facets that would need to be gone into in the course of the trial and the proceedings. The amendments merely put the Defendants on notice as to the nature of the attack in the proceedings. Needless to say, the Defendants will be fully entitled to deal with all contentions on their merits after the



amendments, including the Defendants contention that the challenge to the 2019 LOI is barred by limitation.

12. In my opinion, no case is made out for not allowing the amendments, since they do appear to be linked to the very same cause of action and do not represent a completely new cause of action in the garb of an amendment.

13. It has also been contended that when the plaint was originally filed, the Plaintiffs ought to have, with due diligence, been aware that they ought to have challenged the LOI of 2019 as well.

14. The developments in the matter are such that Defendant No.12 replaced Defendant Nos.2 to 4 in the redevelopment activity on April 29, 2024. Since, in my view, prima facie, the amendments are not alien and are a further extension of the original cause of action pursued in the Suit, it cannot be said that the need to assail the LOI of 2019 was crystallised earlier; rather, subsequent events made it necessary to assail the same incidentally to the prayers already drafted in the plaint.

15. It is in these circumstances, in my opinion, there is no basis to deny the Plaintiffs their request to effect the amendments, which only crystallise for the resisting Defendants the precise case being pursued by the Plaintiffs, which the need to meet. Therefore, the amendments deserve to be allowed.



16. Learned Senior Advocate on behalf of Defendant No. 12 relies upon a few judgments namely :- **Basavaraj¹, Anil s/o Ramsing Bilawar², Aura Synergy³ and Dinesh Goyal⁴**

17. The following extract from the Judgment in **Dinesh Goyal** would be noteworthy:-

11.2 Over the years, through numerous judicial precedents certain factors have been outlined for the application of Order VI Rule 17 Recently, this Court in Life Insurance Corporation of India v. Sanjeev Builders Pvt. Ltd. & Anr.;, after considering numerous precedents in regard to the amendment of pleadings, culled out certain principles:-

(i) All amendments are to be allowed which are necessary for determining the real question in controversy provided it does not cause injustice or prejudice to the other side. This is mandatory, as is apparent from the use of the word "shall", in the latter part of Order VI Rule 17 of the CPC.

(ii) In the following scenario such applications should be ordinarily allowed if the amendment is for effective and proper adjudication of the controversy between the parties to avoid multiplicity of proceedings, provided it does not result in iniustice to the other side.

(iii) Amendments, while generally should be allowed, the same should be disallowed if -

(a) By the amendment, the parties seeking amendment does not seek to withdraw any clear admission made by the party which confers a right on the other side.

(b) The amendment does not raise a time-barred claim. resulting in the divesting of the other side of a valuable accrued right (in certain

¹ In Re: Basavaraj Vs. Indira And Ors, Civil Appeal No. 2886 of 2012

² Anil s/o Ramsing Bilawar And Ors. Vs. Anita w/o Gopal Kadam And Anr, Writ Petition No. 7721 of 2019

³ Aura Synergy India Ltd. And Anr. V/s. M/s. New Age False Ceiling Co. Ovt. Ltd. And Anr., 2018 SCC OnLine Del 9911

⁴ Dinesh Goyal v. Suman Agarwal (Bindal), 2024 SCC OnLine SC 2615



situations)

(c) The amendment completely changes the nature of the suit;

(d) The prayer for amendment is malafide.

(e) By the amendment, the other side should not lose a valid defence.

(iv) Some general principles to be-kept in mind are -

(I) The court should avoid a hyper-technical approach: ordinarily be liberal, especially when the opposite party can be compensated by costs.

(II) Amendment may be justifiably allowed where it is intended to rectify the absence of material particulars in the plaint or intro duce an additional or a new approach.

(III) The amendment should not change the cause of action, so as to set up an entirely new case, foreign to the case set up in the plaint.

18. It is the principle enunciated in the aforesaid extracted paragraph that has weighed with me, in taking a view on allowing the amendments. In my opinion, the amendments may be justifiably allowed, since I should refrain from adopting a hyper-technical approach, and for the reasons set out above, this is not a case where an entirely new case, alien to the case in the Plaint as originally filed, is being introduced by way of the amendments.

19. Needless to say, merely amendments have been allowed and nothing in this order is an expression of any opinion on the merits of the proceedings that have been instituted. Since the amendments have been allowed, the introduction of Exhibit S-1 and S-2 is also allowed.

20. In these circumstances, the application seeking amendments is **allowed**. The amendments shall be carried out within a period of two weeks from the upload of this order on the website of this Court and



the same shall be served on the Defendants. The Defendants are at liberty to file a further written statement in response to the amended complaint within a period of 30 days, from the service of the amended complaint on them.

21. Stand over ***“For directions” to February 26, 2026.***

22. 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.]