

Dispute No. CC/II/222/2026

Jaldarshan CHSL V/s. Manav H. Lakhani.

ORDER BELOW EXHIBIT - 5

1. The present application is preferred by the disputant Society seeking temporary injunction restraining the opponent from interfering with the common plumbing pipelines and sewerage chamber passing through Garage No.48 and from carrying out construction, alteration, installation of a commode, bathroom, rolling shutter or any other work affecting the existing nature of the said premises pending disposal of the dispute.

2. Learned advocate for the disputant submitted that Garage No.48 is sanctioned as a garage and that the plumbing pipelines and sewerage chamber passing through the said premises are part of the original sanctioned building plan and constitute common amenities belonging to the Society. It is further submitted that the opponent sought permission for commercial use of the garage, installation of a rolling shutter and removal of the common pipelines, all of which were declined by the Society. According to the disputant, despite such refusal, the opponent commenced work in the premises with the intention of altering the common plumbing arrangements and installing sanitary facilities, thereby endangering the common amenities and affecting the rights of other members. It is further submitted that the work undertaken by the opponent created unrest amongst the members of the Society and necessitated intervention of the police authorities, who advised the disputant to obtain appropriate orders from the competent Court. The disputant has, therefore, prayed for preservation of the existing state of affairs till final adjudication of the dispute.

3. The opponent has resisted the application by filing a detailed reply. Learned advocate for opponents submitted that the premises have historically

been used as a dispensary and that sanitary facilities, including a commode and plumbing connections, have existed therein for several decades with the knowledge of the Society. According to the opponent, the work presently undertaken is confined to restoration and tenantable repairs necessitated after earlier repair works carried out by the Society and does not amount to any unauthorized construction or structural alteration. Reliance is placed upon the order dated 19.02.1970 in Short Cause Suit No. 560 of 1970 passed by the Hon'ble Bombay City Civil Court, maintenance records and other documents to contend that the historical use of the premises as a dispensary has long been recognised. Learned advocate for opponents further submitted that no prima facie case exists, that the balance of convenience lies in his favour and that the interim application deserves to be rejected.

4. The disputant has filed a rejoinder denying the assertions made in the reply and reiterating that the proposed work is unauthorized and affects common amenities of the Society.

5. I have heard the learned Advocates for both sides. I have carefully considered the pleadings, the documents filed on record and the rival submissions.

Points for Determination

1. Whether the disputant has established a prima facie case for grant of temporary injunction?
2. Whether the balance of convenience lies in favour of granting interim protection?
3. Whether the disputant is likely to suffer irreparable injury in the absence of interim relief?
4. What order?

Findings :-

Point	Finding
As to Point No.1	In the Affirmative
As to Point No.2	In the Affirmative
As to Point No.3	In the Affirmative
As to Point No.4	As per final order

REASONS

AS TO POINT NO. 1 TO 3

6. It is well settled that while considering an application for temporary injunction, the Court is required to examine whether the applicant has established a prima facie case, whether the balance of convenience lies in its favour and whether refusal of interim relief would result in irreparable injury. At this interlocutory stage, the Court is not expected to finally adjudicate disputed questions of fact or finally determine the substantive rights of the parties.

7. The pleadings disclose that serious disputes exist regarding the historical nature and user of Garage No.48, the existence of sanitary facilities therein since inception, and the rights of the parties in respect of the common plumbing pipelines and sewerage chamber. These questions are vigorously contested by both sides and can only be conclusively decided after appreciation of evidence during the trial. Any observation made herein is, therefore, purely prima facie.

8. It is, however, not in dispute that the opponent has commenced work in the disputed premises. The controversy is not regarding commencement of the work but regarding its character. While the opponent contends that the work is confined to permissible tenantable repairs and restoration of existing facilities, the disputant asserts that the work involves unauthorized alteration affecting common plumbing pipelines, the sewerage chamber and the nature and user of the premises. Thus, the very nature, extent and legality of the work constitute the principal issues in the present dispute and remain to be adjudicated after evidence.

9. The disputant has specifically pleaded that the plumbing pipelines and sewerage chamber passing through Garage No.48 constitute common amenities of the Society and that any unilateral interference therewith would adversely affect several members residing in the building. The opponent disputes the said assertion. Since the existence, ownership and legal character of these common amenities themselves form the subject matter of the dispute, permitting further alteration during the pendency of the proceedings may materially change the existing situation and render the final adjudication ineffective. Preservation of the subject matter is, therefore, of considerable importance.

10. The opponent has relied upon the order dated 19.02.1970 passed by the Hon'ble Bombay City Civil Court in Short Cause Suit No.560 of 1970. Prima facie, the said order records certain observations regarding the then user of the premises and refusal of interim injunction in the facts of that case. However, the said order was passed in interlocutory proceedings between different parties and in an altogether different factual and statutory context. The present proceedings arise under Section 91 of the Maharashtra Co-operative

Societies Act, 1960 and concern the present rights and obligations of the Society and its member in relation to the works presently undertaken and the alleged interference with common amenities. Consequently, the said order cannot, at this interlocutory stage, be treated as determinative of the issues arising in the present dispute. Its evidentiary value shall remain open for consideration at the stage of final adjudication.

11. The record further indicates that the work undertaken by the opponent has resulted in serious objections from the Society and several members, giving rise to a situation affecting the peaceful functioning of the Society and compelling the disputant to seek intervention from the competent Court. Preservation of the existing state of affairs during the pendency of the dispute would adequately safeguard the competing interests of both parties without prejudging their respective rights. If the work is permitted to proceed and the disputed common amenities are altered, restoration at a later stage may not be possible without further complications. On the other hand, maintaining status quo pending adjudication would not finally determine the rights of either party and would merely preserve the subject matter until the dispute is decided on merits.

12. In these circumstances, this Court is satisfied that the disputant has established a prima facie case. The balance of convenience also lies in favour of preserving the existing condition of the disputed premises and the alleged common amenities. Refusal of interim protection is likely to result in complications incapable of being adequately compensated in monetary terms and may render the final relief, if granted, ineffective. Accordingly, I answer **Points No. 1 to 3 in the Affirmative.**

AS TO POINT NO. 4

13. For the reasons stated above, the disputant is entitled to interim protection. Hence, I proceed to pass the following order.

ORDER

1. The Interim Application (Exh. 5) is allowed.
2. Pending hearing and final disposal of the dispute, the opponent, his servants, agents, representatives or any person claiming through or under him are hereby directed to maintain status quo in respect of the existing plumbing pipelines and sewerage chamber situated in or serving Garage No.48.
3. Pending hearing and final disposal of the dispute, the opponent, his servants, agents, representatives or any person claiming through or under him are restrained from removing, damaging, diverting, tampering with or interfering with the aforesaid plumbing pipelines and sewerage chamber and from carrying out any work affecting the existing nature and condition of Garage No.48, without prior permission of this Court.
4. It is clarified that all observations made herein are purely prima facie and confined to the adjudication of the present interim application. They shall not influence the final decision of the dispute on merits.
5. No order as to costs.

(Pronounced in open Court.)

Sd/-

Place : Mumbai.

Judge

Date : 01/07/2026

I/c Co-Operative Court No. II, Mumbai.