

Amberkar

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

APPEAL FROM ORDER (ST) NO. 185 OF 2026
WITH
INTERIM APPLICATION (ST) NO. 186 OF 2026

Nandkumar B. Bhondve

Appellant

.. (Org. Defendant No. 8)

Versus

Arunabai Maruti Bhondve & Ors.

.. Respondents

-
- Mr. Bharat Gadhavi a/w Mr. Sarvesh Deshpande, Advocates for Appellant

.....
CORAM : MILIND N. JADHAV, J.

DATE : JANUARY 9, 2026

P. C.:

1. Not on board. Mentioned by way of filing a praecipe dated 09.01.2026.
2. Heard Mr. Gadhavi, learned Advocate for Appellant - Org. Defendant No. 8. He would draw my attention to the impugned order dated 01.10.2025 passed below Exh. 59 in S.C. Suit No. 981/2015 passed by learned Trial Court.
3. He would submit that the Suit proceedings between the warring parties is pending in the Trial Court since 2015 and Application below Exh. 59 has been filed on 24.03.2025. It is seen that there is endorsement by the Trial Court on the face of the said Application that Defendant Nos. 1 to 7 and 9 to 10 remained absent and failed to file

reply. Hence the Application has been proceeded without their reply whereas Defendant No. 8 has accepted copy of the Application on 24.03.2025 but he has failed to file reply. He would draw my attention to the fact that after the endorsement was effected on 25.06.2025, the matter was posted for hearing on 01.10.2025 on which date the impugned order has been passed. He would concede that Respondent No. 8 appeared on that date and desired to file affidavit in reply for which the learned Trial Court did not give him time and proceeded with passing of the impugned order. He would submit that after the impugned order is passed on 01.10.2025, Defendant No. 8 also filed Application for seeking recall of that order on the grounds mentioned in the AO but the same was not considered and it was rejected on 23.12.2025 leading to filing of the present AO. He would submit that Respondent No. 8 is directly affected in the proceedings by the impugned order since construction is being carried out by Defendant No. 8 on the suit property and due to the interim order, construction and development is halted. Stage of the Suit is for evidence of Plaintiffs as informed by Mr. Gadhavi.

4. In the aforesaid background and facts and considering the principal ground in the AO that Respondent No. 8 was denied opportunity of hearing as also of filing of affidavit in reply and the impugned order affecting the substantive right of Defendant No. 8,

said order is directed to be stayed forthwith. Needless to state that Plaintiffs shall be duly heard by this Court. Considering that the Suit is of the year 2015, Trial Court after hearing both sides may consider expeditiously the Suit proceedings in the interest of justice.

5. In view of the above, issue notice to the Respondents made returnable on 22.01.2026. Humdast permitted. In addition to Court's notice, Appellant is directed to serve copy of the AO, Interim Application along with copy of this order on the Respondents and inform them about the next date of hearing by any permissible mode of service and file appropriate affidavit of service with tangible proof thereof on or before the next date.

6. After receiving the notice, Respondents to file affidavit-in-reply on or before the next date, if so desired with an advance copy to the Advocate for Appellant.

7. Stand over to **22nd January, 2026.**

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[MILIND N. JADHAV, J.]

Digitally signed
by RAVINDRA
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AMBERKAR
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