

Ajay

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

APPEAL FROM ORDER NO. 275 OF 2026
WITH
INTERIM APPLICATION NO. 1769 OF 2026
IN
APPEAL FROM ORDER NO. 275 OF 2026

M/s. Devdarshan Enterprises

Appellant
.. (Orig. Plaintiff)

Versus

Municipal Corporation of Greater Mumbai and
Ors.

Respondents (Orig.
.. Defendants)

WITH
INTERIM APPLICATION NO. 1773 OF 2026
IN
APPEAL FROM ORDER NO. 275 OF 2026

.....

- Mr. Atul Damle, Senior Advocate a/w. Sourasubha Ghosh, Mr. Anirban Sen and Mr. Jash Shah, Advocates i/by IndusLaw for Appellant.
- Mr. Rakesh Agrawal a/w. Mr. Sandeep Nirban, Advocates for Intervenor.
- Ms. Neeta Jadhav, Advocate i/by Ms. Komal Punjabi for MCGM.
- Mr. Amogh Singh a/w. Mr. Rahul Arora, Advocates i/by Mrunal Surana for Respondent No.4.

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CORAM : MILIND N. JADHAV, J.

DATE : MARCH 24, 2026.

P.C.:

1. Heard Mr. Damle, learned Senior Advocate for Appellant; Mr. Agrawal, learned Advocate for Intervenor; Ms. Jadhav, learned Advocate for MCGM and Mr. Singh, learned Advocate for Respondent No.4.

2. On 07.03.2026, after hearing Mr. Agrawal, learned Advocate for Intervenor and Mr. Vajale, learned Advocate for MCGM, the following order was passed:-

"1. A very serious order was passed on 19th December 2025, which reads thus:

"1. Not on board. Mentioned by way of filing a praecipe dated 19.12.2025.

2. Heard Mr. Godbole, learned Senior Advocate for Appellant and Mr. Agarwal, learned Advocate for Intervenor.

3. Suit premises is ground plus 8 storey building. The building is occupied by members of a Society for commercial purposes. Lis in the present case is that the suit structure is constructed unauthorizedly. Mr. Godbole appears for developer of the building. He would submit that members applied to the Corporation seeking repairs and repaired the building. It is alleged by Mr. Agarwal and Corporation that under the garb of repairs Appellant constructed the building. According to Mr. Godbole building was constructed after following due process of law and pursuant to sanctioned plan issued by Corporation, copy of which is appended at page No. 84 of Petition.

4. Today the intervenor represented by Mr. Agarwal who is the original complainant with regard to the alleged construction would submit that it is a completely unauthorized construction and the alleged sanctioned plan is not even available in the Corporation record. He has intervened in the suit proceedings in the Trial Court and his Chamber Summons is pending. He would submit that he was heard at the time of passing of the impugned order.

5. Apprehension is expressed by Mr. Godbole that Corporation may take steps to demolish the suit building in furtherance of the impugned order. Without expressing any opinion or imprimatur on merits or legality of the suit structure, I direct the Corporation not to take any steps to demolish the said building in furtherance of the impugned order. Needless to state that Corporation shall place on affidavit to the satisfaction of this Court whether the building is authorized and the veracity of the sanctioned plan relied upon by Plaintiff with respect

to the findings given in the impugned order.

6. Mr. Agarwal informs the Court that he would like to file Intervention Application in the present AO. If the Intervention Application is filed, this Court shall consider the same in accordance with law.

7. Mr. Agarwal would submit that the facts in the present case are extremely gross. Though he has voiced the same it would be appropriate if he files the Intervention Application so that this Court can determine the veracity of the plan which is challenged by the Intervenor. Corporation is directed to place on record the sanctioned plan of the suit structure to enable the Court to arrive at a considered decision. In the meanwhile, no coercive steps shall be taken against the suit structure.

8. In view of the above, issue notice to the Respondents made returnable on 13.01.2026. Humdast permitted. In addition to Court's notice, Appellant is directed to serve copy of the AO 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. After receiving the notice, Respondents to file affidavit-in-reply within two weeks. Rejoinder if any shall be filed within one week thereafter.

9. Stand over to 13th January 2026.”

2. The matter has been listed for hearing today specifically on a court working Saturday in order to ensure that it can be taken to its logical end.

3. Mr, Vajale, learned Advocate for the Corporation is ready to argue the matter with all papers and sanctions equally the intervenor represented by Mr. Agrawal is also present in the Court. Despite notice of reminder having been given to the Appellant- original Plaintiff and he having been represented by learned Senior Advocate of this Court on the previous date, nobody is present in the Court today when the matter is called out at 12.20 hours.

4. The facts in the present case are extremely gross. Without giving any imprimatur, one final opportunity is given to the Appellant to remain present on the next adjourned date, failing which ad-interim order which has been granted in paragraph no. 5 on 19th December 2025 and continued subsequently on 2nd February 2026 shall stand vacated automatically.

5. *The Applicant is directed to remain present before the Court on the next date. Copy of this order be given to the learned Advocate for the Applicant and the Applicant, by Mr. Agrawal.*

6. *The severeness in the present case is exhibited from the fact that admittedly the original building was a “ground+two storey structure. The original erstwhile landlord applied for repair permission and sold the building to the present Appellant, who is the landlord. The present Appellant taking advantage of the permission for repairs granted to the erstwhile landlord pulled down the entire building and constructed a ground + basement + 8 storey building, certainly such a huge structure cannot be constructed without the blessings of the officers of the Corporation and that also overnight.*

7. *Be that as it may there is nothing on record prima facie to show that the said building is authorised. The trial Court has rejected the ad-interim relief. In such a gross case, though the procedure adopted by the Court is to remand the matter back to the trial court for hearing of Motion, in my opinion in the present facts this cannot be allowed. Be that as it may since the Appellant is not present before the Court, one final Opportunity is given to the Appellant and the learned Advocate to remain present in the next adjourned date.*

8. *Stand over to 13th March 2026. To be shown first on board.”*

3. Thereafter on 13.03.2026, after hearing Mr. Sen, Mr. Agrawal and Mr. Vajale, the following order was passed:-

“1. I have heard Mr. Sen, learned Advocate for Appellant; Mr. Agrawal, learned Advocate for Intervenor and Mr. Vajale, learned Advocate for MCGM.

2. Names of the partners of M/s. Devdarshan Enterprises except for Mr. Jeegar Parmar are not known to Mr. Sen. He is not aware about the names of the other partners. All partners of Appellant / Plaintiff are directed to physically remain present before this Court on the next adjourned date in view of the gross facts in the present case.

3. The facts are extremely gross and serious and are documented in the previous orders which have been passed by the Court after grant of ad-interim relief on 19.12.2025.

4. The orders which are passed thereafter prima facie show that the Appellant has taken law into his own hands. Even today, Mr. Sen, is reluctant to argue and all that he seeks is an adjournment and accommodation. There is no answer whatsoever given to the various questions which have been

posed by the Court in the previous orders passed by the Court.

5. Be that as it may, Mr. Sen should be ready to argue the matter on the next adjourned date and adjournment is granted only at his request.

6. The partners of M/s. Devdarshan Enterprises are all directed to remain present before this Court on the next adjourned date.

*7. Stand over to **24th March 2026**. To be placed under the caption '**First on Board**'."*

4. On 19.12.2025, this Court had granted ad-interim relief and stayed the impugned order on the plea of Appellant that the Corporation would take steps to demolish the Suit building. On that date, the Court without expressing any imprimatur on merits granted ad-interim relief and called upon the Corporation to place on Affidavit to the satisfaction of the Court whether the Suit building was authorized or otherwise.

5. Case of the Corporation and the Intervenor represented by Mr. Agrawal is that under the garb of carrying out repairs on the basis of Application made by Vendor of the Plaintiff, Plaintiff – firm has constructed a ground + 8 storey structure / building with basement in place of the original ground + 2 storey structure / building by pulling down the original building structure.

6. Ms. Jadhav, learned Advocate appears for the Corporation. She informs the Court that Corporation has filed Affidavit by placing all relevant material on record.

7. In compliance of the previous order, partners of Plaintiff – firm are present in Court. Their names are Mr. Jigar Parmar, Mr. Hasmukh Ranawat, Ms. Nilima Parmar and Ms. Pushpa Ranawat. Since they are now represented by Mr. Damle, learned Senior Advocate and 2 out of the 4 partners of Plaintiff – firm are ladies, the said partners namely Ms. Nilima Parmar and Ms. Pushpa Ranawat stand exempted for future appearances in the Court. Needless to state that the other 2 partners namely Mr. Jigar Parmar and Mr. Hasmukh Ranawat shall attend all future hearings in this Court in the present matter. Equally, the other 2 partners who have been granted exemption shall also attend the Court if they are called upon by the Court to do so in future.

8. Mr. Damle is permitted to file an appropriate Affidavit on the request made by him to explain the entire timeline in the present matter alongwith the list of dates beginning with the date of Application for repairs made by the Vendor of Plaintiff and the date of purchase by Plaintiff leading to completing the construction of the ground + 8 storey building alongwith basement and also place on Affidavit the details of third party rights created by him in respect of sale of the units / *galas* to the members of the Society.

9. Mr. Singh, learned Advocate represents and espouses the cause of Respondent No.4 – Society. He would submit that 121

members of the Co-operative Society have purchased commercial units / *galas* in this building from the Plaintiff by registered Agreements. He would submit that the members have formed the Cooperative Housing Society and therefore the future of the Member of the Society is at stake.

10. In so far as this Court is concerned, the Court will have to first ascertain whether the said building is an authorized structure or otherwise. What is mentioned in the aforementioned previous orders of the Court *prima facie* seals the issue. If there is no cogent answer from the Plaintiff, the cause and the case of the Society members cannot be helped by this Court on humanitarian consideration. Rule of law prevails and is required to be abided by the parties.

11. Needless to state that Plaintiff is given an opportunity to file additional Affidavit as requested by Mr. Damle and place on record the substantive facts. However, this order cannot absolve the Corporation under whose very nose the building has been constructed sans permission or sanctioned plan. There is a reference to the sanctioned plan in the impugned order which will have to be made good by the Plaintiff since the same is *prima facie* on the face of record found to be inadequate by this Court.

12. Opportunity is therefore given to Plaintiff to file appropriate Affidavit and explain to the Court and place on record any cogent

material that Plaintiff may have to the satisfaction of the Court to justify the authorization of the construction of ground + 8 storey building comprising of 121 units / *galas* alongwith basement area constructed by Plaintiff.

13. After Affidavit is filed by Plaintiff, this Court shall not hesitate from passing further orders with respect to the role of officers of the Corporation who have maintained a stoic silence during the entire construction period of such a building, but that order can only be passed after the Affidavit is filed by the Plaintiff and if at all the Court is required to pass such an order.

14. At present, in view of the exigency mentioned by Mr. Singh, the ad-interim order stands continued and hence no coercive steps shall be taken by the Corporation.

15. Corporation is also directed to file additional Affidavit and explain to the Court the role of the officers who were in place with the Corporation during the time when the entire building ground + 8 storey alongwith basement was constructed by the Plaintiff because it is the case of the Corporation now before this Court that the entire building is illegal as it is constructed without any sanctioned plan. Certainly such a building cannot be constructed overnight and therefore in that view of the matter the AMC / Ward Officer, C-Ward is directed by Court to file an Affidavit and place on record the names

and details of the officers of the Corporation of the Building and Factories Department alongwith their duties who were involved in granting the repair permission and supervise the same during the period when the building was constructed. Let the Affidavit be filed within a period of three weeks from today by the parties as directed. Copy of the same shall be served on the other side in advance.

16. Society is also permitted by the Court to file appropriate Affidavit to explain its cause and of the members of the Society as requested by Mr. Singh.

17. Stand over to **9th April 2026**.

[MILIND N. JADHAV, J.]

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Date: 2026.03.24
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