

Amberkar

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

INTERIM APPLICATION NO. 2466 OF 2026
WITH
APPEAL FROM ORDER (ST) NO. 1910 OF 2026

Naresh Chunilal Jain alias Parmar & Anr.

Applicants /
Appellants

•• (Org. Defendant Nos. 4 & 5)

Versus

Shantilal K. Shah & Ors.

Respondents

(R1-Org. Plaintiff

R 2 to 6 - Org. Defendant

•• Nos. 1 to 3 & 6 to 7)

WITH
INTERIM APPLICATION NO. 2467 OF 2026
WITH
APPEAL FROM ORDER (ST) NO. 1913 OF 2026

Naresh Chunilal Jain alias Parmar & Anr.

Applicants /
Appellants

•• (Org. Defendant Nos. 4 & 5)

Versus

Hiren Shantilal Shah & Ors.

Respondents

(R1-Org. Plaintiff

R 2 to 6 - Org. Defendant

•• Nos. 1 to 3 & 6 to 7)

WITH
INTERIM APPLICATION NO. 2468 OF 2026
WITH
APPEAL FROM ORDER (ST) NO. 1911 OF 2026

Naresh Chunilal Jain alias Parmar & Anr.

Applicants /
Appellants

•• (Org. Defendant Nos. 4 & 5)

Versus

Jayaben S. Shah & Ors.

Respondents

(R1-Org. Plaintiff

R 2 to 6 - Org. Defendant

•• Nos. 1 to 3 & 6 to 7)

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- Ms. Pushpa Ganediwala a/w Mr. Ankit B. Rathod, Mr. Ishan Agrawal, Anshu Agrawal & Mr. Pradyumna Agrawal, Advocates for Appellants
 - Mr. Sachin Vajale, Advocate for Respondent No. 5 - Corporation
 - Mr. Hiten S. Shah, Respondent No. 1 in AO(St) 1913/2026 present

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CORAM : MILIND N. JADHAV, J.

DATE : APRIL 15, 2026

P. C.:

1. Heard Ms. Ganediwala, learned Advocate for Appellants, Mr. Hiten Shah, Respondent No. 1 in AO(St) 1913/2026 and Mr. Vajale, learned Advocate for Respondent No. 5 - Corporation.

2. For the sake of convenience, the parties shall be referred to in terms of their status before the Trial Court.

3. At the outset, Ms. Ganediwala would inform the Court that there is delay of 37 days in filing the present Appeals from Order. Hence above three captioned Interim Applications have been taken out for condonation of delay. For the reasons stated therein, Interim Applications are allowed in terms of prayer clause (a). Delay of 37 days in filing the present Appeals stand condoned. Appeals are taken up for admission and hearing forthwith.

4. Appellants are original Defendant Nos. 4 & 5 before the Trial Court. Plaintiff before the Trial Court has filed the 3 Suit proceedings seeking appointment of Receiver, possession as also detention of

Defendant Nos. 1 to 5 in Civil Prison for disobeying the Court's order as also for injunctive reliefs. Plaintiff has also filed Application seeking relief against the Planning Authority from granting any further sanction, permission and occupation certificate in respect of the redeveloped property which is half completed. There are various charges levelled by Plaintiff against Defendants of sale of suit flats to several parties. The issue which is emanating from the impugned order dated 14.11.2025 (3 identical orders in 3 Suit proceedings) is with regard to directions given to Defendants by learned Trial Court, *inter alia*, to pay the temporary accommodation charges to the Plaintiff.

5. Grievance of Defendant Nos. 4 and 5 is pleaded on the basis that they had retired from Partnership firm as far back as in 2012 and therefore they would not be liable to pay temporary alternate accommodation charges to the Plaintiff. However, record shows that agreement to provide permanent alternate accommodation was executed between the parties on 06.02.2012.

6. Insofar as the Plaintiff in all three Suit proceedings is concerned, they are represented by Mr. Hiten Shantilal Shah (Respondent No. 1 in AO 1913/2026) who is the son of Shantilal K. Shah (Respondent No. 1 in AO (St) No. 1910/2026). He is appearing in person. His parents are very old. He would submit that he has not appointed any Advocate as yet. Though he has made certain submissions against his

earlier Advocate, I have still persuaded him to take instructions and appoint an Advocate so that the proceedings can be conducted properly and appropriately before this Court.

7. Ms. Ganediwala, learned Advocate for Appellants would submit that directions to pay 50% temporary accommodation charges to the Plaintiff is the subject matter of challenge in view of the fact that said Defendants had resigned and retired from Partnership firm in respect of which liability was thereafter taken over by other partners of firm.

8. Contrary to the submissions made by Defendant Nos. 4 and 5, Defendant No. 3's case as noted in the impugned order is to the effect that he has also retired from the Partnership firm and as per the Deed of Retirement dated 14.02.2019, his liability was taken over by other partners of Firm at the then time and he has also been discharged by this Court by order dated 27.04.2022. Defendant No. 3 is not present before me.

9. In view of the aforesaid rival submissions, issue notice to the unrepresented Respondents made returnable on 18.06.2026. Respondents present waive service. Humdast permitted. In addition to Court's notice, Appellants are directed to serve copy of the AOs 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.

10. Plaintiffs are directed to appoint an Advocate to represent and espouse their cause.

11. After receiving the notice, Respondents to file affidavit-in-reply within a period of four weeks from today with an advance copy to the Advocate for Appellants. Rejoinder if any shall be filed within two weeks thereafter.

12. In the meanwhile, the directions contained in operative clauses 3 and 4 of order dated 14.11.2025 in all three proceedings shall stand stayed until the present Appeal from Orders are heard for admission by this Court.

13. Stand over to **18th June, 2026.**

Amberkar

[MILIND N. JADHAV, J.]

Digitally signed
by RAVINDRA
MOHAN
AMBERKAR
Date:
2026.04.15
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