

HARSHADA H. SAWANT
(P.A.)

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

APPEAL FROM ORDER (ST.) NO.4314 OF 2026
WITH
INTERIM APPLICATION (ST.) NO.4315 OF 2026

Aaditya Pearl Cooperative Housing Society Ltd. .. Appellant

Versus

Municipal Corporation of Greater Mumbai and

Anr.

.. Respondents

.....

- Mr. Atul Damle, Senior Advocate a/w. Mr. Suresh Sabrad, Mr. Amey C. Sawant, Mr. Sunny Jain and Ms. Eshwaree Kudalkar for Appellant.
- Mr. Rubin Vakil a/w. Ms. Pranita Saboo, Advocates i/by Kush Shah for Intervenor / Respondent Nos.3 and 4.
- Ms. Rachna Mamnani, Advocate for Intervenor.

.....

CORAM : MILIND N. JADHAV, J.

DATE : FEBRUARY 13, 2026

P.C.:

- 1.** Not on Board. Mentioned by way of filing praecipe dated 13.02.2026. Perused the praecipe.
- 2.** Heard Mr. Damle, learned Senior Advocate for Appellant; Mr. Vakil, learned Advocate for Intervenor / Respondent Nos.3 and 4 and Ms. Mamnani, learned Advocate for Intervenor.
- 3.** The order impugned dated 09.02.2026 in the present Appeal is appended at page No.18 of the Appeal from Order which is order passed on ad-interim application made in Notice of Motion No.633 of 2026. Plaintiff is a Cooperative Housing Society which has been issued

a notice requiring its members to restore the status and user of their respective suit premises. List of the members having committed the abberation contrary to law is appended at page Nos.39 and 41 in the statutory notice issued to the Society.

4. The order on running page No.19 *prima facie* records about Application made by the Members of Society under Section 44 for regularisation. There is reference also to the decision of this Court in *Takshashila Hotels Private Limited Vs. Municipal Corporation of Greater Pune*¹ and it is stated that in that case the Corporation had specifically made a submission through their learned Counsel that they did not have any objection, therefore injunction was granted. These facts are not seen to be there in the present case which has led to passing of the ad-interim order refusing ad-interim injunction.

5. The complainant in the present case is represented by Mr. Vakil. He appears for Complainant and in the same impugned order while allowing Chamber Summons No.347 of 2026 the Complainant has been impleaded as Defendant. Ms. Mamnani, learned Advocate appears for another Intervenor whose impleadment is also allowed in the same order while allowing Chamber Summons Nos.372 of 2026. The order *per se* as appearing on page Nos.18 and 19, save and except the aforesaid does not give any reasons. Admittedly Notice of Motion No.633 of 2026 is still pending adjudication. Substantial documentary

¹ Interim Application No.12635/2025 in Writ Petition No.4179/2011

evidence is appended to the Appeal from Order but when the principal Notice of Motion is pending no purpose whatsoever will be served for this Court to apply its mind and give its opinion on facts rather disputed questions of facts which are bound to be argued before the Trial Court in the Notice of Motion.

6. One of the key Defendant - Respondent in the present *lis* is the Corporation. In that view of the matter, it would be appropriate if the learned Trial Court is directed to determine Notice of Motion No.633 of 2026 as expeditiously as possible. In that view of the matter, the learned Trial Court is requested by this Court to determine Notice of Motion No.633 of 2026 expeditiously. Reply is directed to be filed within a period of two weeks from today. Needless to state that Corporation is also directed to file its Reply within a period of two weeks. Rejoinder, to the Corporation's Reply and Intervenors' Replies are directed to be filed within a period of two weeks thereafter.

7. Once the aforesaid exercise is completed, the learned Trial Court shall ensure that a date is fixed for hearing Notice of Motion No.633 of 2026 and complete the hearing of the same within a period of six weeks thereafter. Needless to state that contentions of all parties are kept open and learned Trial Court shall determine the Notice of Motion in accordance with law.

8. Needless to state that this Court has not expressed any

opinion on merits of Plaintiff's case as also case of member of Plaintiff.

9. In the meanwhile no coercive steps shall be taken in furtherance of impugned notice and the order passed by Designated Officer which is the subject matter of the suit proceedings until the Notice of Motion is disposed of as directed hereinabove and for a period of two weeks thereafter if the order is adverse to the Plaintiff.

10. In view of the above, Appeal from Order is disposed. In view of disposal of Appeal from Order, pending Interim Applications, if any are also disposed.

H. H. SAWANT

[MILIND N. JADHAV, J.]

HARSHADA
HANUMANT
SAWANT

Digitally signed
by HARSHADA
HANUMANT
SAWANT
Date: 2026.02.13
18:03:23 +0530