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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

**(917) INTERIM APPLICATION NO. 3525 OF 2026
IN
APPEAL FROM ORDER (ST) NO. 4941 OF 2026**

Municipal Corporation of Greater Mumbai and Anr. Appellants
.. (Original Defendants)

Versus

Ajit Ramdhani Gupta & Anr. Respondents
.. (Original Plaintiffs)

**WITH
(918) INTERIM APPLICATION NO. 3526 OF 2026
IN
APPEAL FROM ORDER (ST) NO. 4961 OF 2026**

Municipal Corporation of Greater Mumbai and Anr. Appellants
.. (Original Defendants)

Versus

Sambhaji Popat Lokhande Respondents
.. (Original Plaintiff)

**WITH
(919) INTERIM APPLICATION NO. 3527 OF 2026
IN
APPEAL FROM ORDER (ST) NO. 5526 OF 2026**

Municipal Corporation of Greater Mumbai and Anr. Appellants
.. (Original Defendants)

Versus

Mr. Brajesh Rambadan Singh Respondent
.. (Original Plaintiff)

**WITH
(920) INTERIM APPLICATION NO. 3528 OF 2026
IN
APPEAL FROM ORDER (ST) NO. 5101 OF 2026**

Municipal Corporation of Greater Mumbai and Anr. Appellants
.. (Original Defendants)

Versus

Mr. Prasad Amrit Rao and Ors. Respondents
.. (Original Plaintiffs)

**AND
(921) INTERIM APPLICATION NO. 3529 OF 2026**

IN
APPEAL FROM ORDER (ST) NO. 5381 OF 2026

Municipal Corporation of Greater Mumbai and Anr.	Appellants .. (Original Defendants)
Versus	
Mrs. Bharti H. Kamat and Ors.	Respondents .. (Original Plaintiffs)

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- Mr. Sachin Vajale a/w Ms. Neeta Jadhav i/b Ms. Komal Punjabi, Advocates for Appellant - MCGM.
 - Mr. Pratik Salvi - SE, Mr. Ashish L. Mundada - JE, Maintenance, P/North, Officer were present in Court.

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CORAM : MILIND N. JADHAV, J.
DATE : MAY 7, 2026.

P.C.:

1. Heard Mr. Vajale, learned Advocate for Appellant – Corporation.
2. This Appeal From Order is filed by the Municipal Corporation to assail the order dated 16.10.2025 passed in Notice of Motion No. 896 of 2025 in L.C. Suit No.575 of 2025. Appellant - Corporation before me is the original Defendant in the Suit. Parties are referred to as Plaintiffs and Defendants for brevity.
3. Suit property is nomenclatured as Shop No. 1 and Shop No.2 admeasuring 270 sq.ft. and 260 sq.ft. situated at Ganga Niwas, Chincholi Bunder Road, Off. Link road, Malad (West), Mumbai – 400064 (for short “**the suit property**”). Original Plaintiffs filed the Suit to challenge statutory notice dated 28.05.2024 issued by Corporation

under Section 485-A of the Mumbai Municipal Corporation Act, 1888 (for short “**MMC Act**”). According to Plaintiffs they are the owners of the suit property by virtue of registered Sale Deeds. Incidentally, the Corporation has also accepted the said position. Corporation has issued public notice dated 19.09.2024 declaring Plaintiffs as eligible for rehabilitation and/or compensation for the loss of their shops because Corporation has proposed road widening for improvement of vehicular and pedestrian traffic based on a sanctioned road line of 18.30 mtrs. and a realigned DP road of 36.60 mtrs.

4. In furtherance of the above road widening proposal, Corporation issued notices under Section 485-A to Plaintiffs who are all shopkeepers having their structures on the proposed road. The shopkeepers filed their reply but during pendency of proceedings Corporation Officers pasted a public notice dated 24.12.2024 on certain shops announcing the preparation of final Annexure - II and inviting suggestions and objections.

5. Mr. Vajale, learned Advocate for Corporation in his usual fairness informs the Court that all Plaintiffs are entitled to rehabilitation or compensation for their commercial premises namely the suit property which fall within the affected area i.e. the road line for road widening. He would therefore argue that Corporation issued notices dated 08.01.2025 to each of the Plaintiffs calling upon them to

opt for rehabilitation or compensation as per eligible area and to furnish seven (7) documents as specified in the notice.

6. It appears that threatened with coercive action the shopkeepers filed independent Suit proceedings in the Civil Court and the learned Trial Court passed the impugned order therein on 16.10.2025. It is seen that all orders are identical, passed on the same date and facts are also similar. Matters are listed on Supplementary Board today at the request of Corporation.

7. I have heard Mr. Vajale alongwith Ms. Jadhav, learned Advocates for the Corporation in all five matters and with their able assistance perused the record.

8. It is seen that case of the Corporation for road widening, *prima facie*, appears to be genuine and most importantly in public interest; juxtaposed with this is the case and substantive right of the Plaintiffs who are respondents herein. Rights of both parties are genuine but they cannot coexist together. Need of the Corporation to acquire the open land or land occupied by the suit structures / shops of the Plaintiffs which fall within the regular line of the road alignment needs to be considered but equally such power of eminent domain cannot be allowed to fructify without providing alternate accommodation to Plaintiffs in lieu of their shops / area before proceeding with demolition of their structures. In fact this proposition

is duly supported by the circular of Corporation which enunciates policy / guidelines for removal of bottlenecks / missing links of DP roads, TP roads and RL (road line). The said guidelines are enunciated by the Corporation on the basis of the public policy and ground realities. The said guidelines of Corporation themselves contemplates allotment of alternate accommodation / compensation and only thereafter the affected structures shall be demolished.

9. This is the basis of the present Appeals from Orders before me filed by the Corporation. The impugned order passed by the learned Trial Court on 16.10.2025 upholds the policy and procedure and gives cogent directions while determining interim reliefs.

10. In October 2025 Corporation was directed to initiate appropriate steps in accordance with law having regard to the nature of the project of road widening in the present case being one of public infrastructure. The learned Trial Court directs Corporation to follow principles of natural justice, initiate appropriate steps, carry out measurements, carry out demarcation of respective shops, grant hearing to the Plaintiffs on the issue of allotment of alternate accommodation, directs alternate accommodation to be preferably given to them at the rear side of the existing shops or in the immediate vicinity before demolition is carried out.

11. Mr. Vajale would plead urgency today. However whether the aforesaid steps are carried out by the Corporation pursuant to passing

of the impugned order is not clear on reading of the Appeal from Order. The Appeal from Order is filed purely on merits. When a question is put by the Court about the aforesaid exercise directed by the Trial Court in the interim order, Mr. Vajale has placed before me a list of 12 properties namely particulars of markets and their locations to contend that alternate rehabilitation / accommodation of the Plaintiffs can be carried out at any of the 12 places belonging to Corporation which are vacant and available. For the sake of convenience the said chart is taken on record and marked "X" for identification. It is scanned and reproduced below:-

"X" *22/11/2026* *7/5/2026* *Sachin Vajale For BMC*
7/5

Sr. No.	Particulars of Markets and location	Ward	Available space in sq. ft.	Available Floor on	Location Address	Name & Mobile No. of M.I./H.I.	Market Insp. Office Address
1	C.T.S. No. 2543-A/1, 2561-A/2, S.No. 155, H. No.1/A of village Dahisar, Rawalpada, Dahisar(E)	R/North	500	1st Floor	Rawalpada, Dahisar (E)		
2	C.T.S. No. 128A/69, 128/A/68 & 128/A/67 of Village Kandivali, Mahavir Nagar, Kandivali (W).	R/South	1000	2nd Floor	Mahavir Nagar Mandai, Pawandham, Opp. Jain Mandir, Behind Sachin Tendulkar Stadium, Mahavir Nagar, Kandivali (W)		
3	C.T.S. No. 279 & 280 of Village Malad (North) of Kandivali (W) Mumbai.	R/South	600	1st Floor	Sarojini Naydu marg, Near Irani wadi, Kandivali (W)		
4	C.T.S. No. 420,422,424,426,428 & 430-432 & 434 village Charkop, Kandivali ,	R/South	6000	Ground & 1st Floor	Chedha Complex, Charkop Village, Kandivali (W)		
5	C.T.S. No. 112-D of Village Kandivali, Kandivali(W)	R/South	2500	1st Floor	Mahavir Nagar near Kapol School, Kandivali (W)		
6	CTS No.128/A/4(pt),128/A/8 to 11(pt) of village Kandivali, Mahavir Nagar, Kandivali (W)	R/South	1800	1st Floor & 2nd Floor	New Link Road , Mahavir Nagar, Kandivali (W)		
7	C.T.S. no. 809/A/1/1/6/C of village Poisar, Thakur Village, Kandivali (E)	R/South	600	1st Floor	Behind Viceroy Savana Building, Thakur Village, Kandivali (E)	Sampat Patil (M.I.)	Sainath Market, Malad (w)
8	FP No.396,TPS-IV, Malharrao Kulkarni Marg, Borivali (W)	R/Central	600	1st Floor	Beside Bhushan Plaza, Malharrao Kulkarni Marg, Borivali(W)		
9	CTS No. 1374 Bof village Eksar, Borivali West	R/Central	1000	1st Floor & 2nd Floor	Chikuwadi, Borivali (W)		
10	CTS. No. 19/328 of village Borivali, MHADA Layout, Gorai, Borivali (West).	R/Central	600	1st Floor & 2nd Floor	Near Swami Vivekanand International School, Gorai Sec-1, Borivali (W)		
11	C.T.S. 395/A & 395/B of Village Kanheri at Borivali (E)	R/Central	600	1st Floor	Shivoham Enclave, Datta Pada Road, Borivali (E)		
12	CTS NO. 1170/E, 176/D, 1177/A to E, 1178/A, 1179/A to C,1221/C&D of Village Malad.	P/South	1500	1st Floor	Ahimsa Nagar, Goregaon West		

12. Mr. Vajale would also inform the Court that Plaintiffs have been apprised of the aforesaid position and available places. The Corporation has taken the above steps, but the question which troubles Court's mind is whether the Plaintiffs will accept the alternate accommodation at any of the 12 places suggested by the Corporation. There is no averment in the Appeal Memo regarding directions contained in operative Clause 3 of the impugned order. It is not clear whether the Plaintiffs will be entitled to rehabilitation in alternate accommodation or compensation only. Corporation will apprise the Court *qua* each of the Plaintiffs in this regard on the next date. Once again in his usual fairness, Mr. Vajale would submit that alternate accommodation availability has been brought to the notice of all Plaintiffs but according to his instructions Plaintiffs have not shown any interest. Here the Court will have to step in.

13. The fact that Plaintiffs are entitled to alternate accommodation is not denied by Corporation. All eligible Plaintiffs' shops falling within the road line will be entitled to alternate accommodation and/or compensation. Even though, if the policy of the Corporation envisages that demolition of Plaintiffs shops will have to be undertaken only after their rehabilitation, it does not mean that the stalemate will continue forever. This is because the public purpose for which the impugned action is invoked by the Corporation is sacrosanct and in the interest of public at large. With rising development,

infrastructure is required to be developed and road widening for infrastructure development is for the benefit of public at large.

14. In a given case if the Plaintiffs do not consider taking alternate rehabilitation / accommodation in the available market premises of the Corporation, the Plaintiffs can opt for compensation. Reading of the Appeal from Order does not show whether Plaintiffs have refused the proposal of the Corporation for rehabilitation. However, considering the need and requirement of road widening project being a necessity for the benefit of public, the Plaintiffs will have to take the decision accordingly. Therefore, I propose to issue notice to Plaintiffs in all five Appeals from Orders filed by the Corporation and call upon them to appear before the Court on next adjourned date and voice their objections if any, because the public purpose of road widening needs to be implemented at the earliest since it is conceived from 2019 onwards and now needs to be fructified.

15. The Plaintiffs undoubtedly will be heard by the Court. It appears that Plaintiffs have commercial shops and are carrying out business on the ground floor but the alternate proposal of premises given by Corporation in 11 out of 12 locations which are scanned and reproduced above are on the 1st and 2nd floor. Plaintiffs' shops are located in Malad. There are 6 locations in Kandivali, 4 locations in Borivali, 1 location in Goregaon and 1 in Dahisar proposed by the

Corporation. Location at serial No. 4 proposed by Corporation in Kandivali West shows available space of 6000 Sq.Ft. on ground and 1st floor. There are other locations which are also proposed. Plaintiffs are directed to visit the said locations before the next date alongwith the Officer of the Corporation to ascertain if they are interested in any alternate accommodation therein and accordingly apprise the Court on the next date.

16. It needs to be reiterated that public interest will prevail over private interest but the shopkeepers will have to be rehabilitated because it is a matter of their livelihood. Corporation shall also in the meanwhile arrange for site visit to the 12 locations alongwith Plaintiffs if they desire to visit, to show them the said alternate accommodation. Objections shall be placed by Plaintiffs before Court within four (4) weeks from today to the Appeal from Order and Corporation's case. All Plaintiffs will be served with copy of this order, respective Appeal from Order and Interim Application proceedings forthwith by Advocate for Corporation.

17. In view of the above, issue notice to Respondents.

18. Humdast permitted. In addition to Court's notice, Appellants are directed to serve Respondents a copy of this order, Appeal from Order and Interim Application and inform about the next date of hearing by any permissible mode of service and file appropriate

Affidavit-of-Service with tangible proof thereof.

19. All contentions of Plaintiffs will be considered by the Court.
20. Affidavit-in-Reply is to be filed within four (4) weeks from today. Rejoinder, if any, is to be filed within one (1) week thereafter.
21. List the matter on **12th June, 2026**. At the request of Mr. Vajale, list the matter under the caption "**First on Board**".

[MILIND N. JADHAV, J.]

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by AJAY
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