

HARSHADA H. SAWANT
(P.A.)

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

APPEAL FROM ORDER (ST.) NO.6000 OF 2026
WITH
INTERIM APPLICATION (ST.) NO.6001 OF 2026

Mozam Ali Mir

Appellant/
.. Org. Plaintiff

Versus

The Mumbai Municipal Corporation and Ors.

.. Respondents

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- Mr. Anil Sakhare, Senior Advocate a/w. Ms. Aruna Sarla, Mr. Suraj D. Chauhan, Advocates i/by Ms. Divya V. Parab for Appellant.

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CORAM : MILIND N. JADHAV, J.

DATE : MARCH 04, 2026

P.C.:

- 1.** Not on Board. Mentioned by way of filing praecipe dated 04.03.2026. Perused the praecipe.
- 2.** Heard Mr. Sakhare, learned Senior Advocate for Appellant.
- 3.** At the outset Mr. Sakhare would submit that Appellant who is Plaintiff in the Trial Court be permitted to implead Developer as party in the present Appeal from Order. In view of exigency mentioned by Mr. Sakhare and the facts of the present case, I am inclined to allow impleadment of Developer in Interim Application and Appeal from Order. Necessary amendment is permitted to be carried out within a period one week from today. Reverification stands dispensed with.

4. The only grievance of Plaintiff who is occupant of flat No.601 in the subject building of Defendant No.4 – Society is that in view of C-1 category report given by Society at behest of Developer, the occupants of building will not be entitled to transit rent as also additional area. According to Plaintiff, building is in repairable state of affairs which is justified by atleast in five C-2B reports to which reference has been invited by Mr. Sakhare and same having been considered while passing impugned order.

5. Mr. Sakhare makes a point that C-1 category Report has been given by Society within a period of three days after entering into the development Agreement on 05.05.2025. He would submit that said Report has been given at the behest of the Developer to deny the legitimate rights of the members and their entitlement to transit rent and additional area. He would submit that the development Agreement has been entered into by the Society without following the due process of law by calling for an appropriate General Body Meeting of the Society.

6. He would submit that only anxiety expressed by the member of the Society is that in such a scenario occupants will not be entitled to transit rent and additional area as per development Agreement which has been executed on 21.06.2024. He would also submit that since C-1 category is accepted it would also deprive occupants like

Plaintiff and other members of the Society of PAAA.

7. Having perused the impugned order and the fact that there were five reports of C-2B category in respect of Society's building which when juxtaposed with the report given by the Society and TAC, an arguable case has been made out by Mr. Sakhare for grant of relief in terms of prayer clause (c) of the Interim Application. Undoubtedly the Society will be heard by the Court.

8. Mr. Sakhare would submit that Plaintiff is residing in the property and therefore grave apprehension is expressed that in view of the order passed by the learned Trial Court essential supplies of the building will be disconnected.

9. In that view of the matter, I propose to hear the Defendants / Society. In view of above, there shall be ad-interim relief in terms of prayer clause (c) of the Interim Application which reads thus:-

“c. That pending the hearing and final disposal of the present Appeal from Order, the Respondents, their servants, agents, employees or any person claiming through them be restrained by an order of injunction of this Hon'ble Court from disconnecting the water connection and electricity as well as from demolishing the suit building or dispossessing the Applicant and members in respect of the building known as Homestead Cooperative Society Ltd., situated at Final Plot No. 703, T.P.S. III (Mahim), Balamiya Lane, Mahim, Mumbai 400 016 in any manner.”

10. Hence, issue notice to Respondents.

11. Humdast permitted. In addition to Court's notice, Appellant /Applicant is directed to serve the Respondents a copy of this order, Interim Application and Appeal from Order and inform about the next date of hearing by any permissible mode of service and file appropriate affidavit of service with tangible proof thereof.

12. Respondents shall filed Affidavit-in-Reply within a period of two weeks from today. Affidavit-in-Rejoinder, if any to be filed within a period of one week thereafter.

13. Stand over to **26th March 2026.**

14. Praecipe is disposed.

H. H. SAWANT

[MILIND N. JADHAV, J.]

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by HARSHADA
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