

IN THE HIGH COURT OF JUDICATURE AT BOMBAY  
CIVIL APPELLATE JURISDICTION

APPEAL FROM ORDER NO. 172 OF 2025  
WITH  
INTERIM APPLICATION NO. 3683 OF 2025  
WITH  
INTERIM APPLICATION NO. 3682 OF 2025

Subir Kumar Banerjee & Anr.

Appellants

.. (Org. Plaintiffs)

**Versus**

Brihanmumbai Municipal Corporation & Anr.

Respondents

.. (Org. Defendants)

.....

- Mr. Prathamesh Kamat a/w Mr. N. Shrivastava, Ms. Sneha Patil, Ms. Isha Vyas and Mr. Bhavya R. Shah i/by M/s. Maniar Srivastava Associates, Advocates for Appellants
- Ms. Neeta Jadhav i/by Ms. Komal Punjabi, Advocate for Respondents
- Mr. Rohan Cama a/w Mr. Kaustubh Patil for Applicant / Intervener in IA No. 3683/2025

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**CORAM : MILIND N. JADHAV, J.**

**DATE : JANUARY 29, 2026**

**P. C.:**

1. Heard Mr. Kamat, learned Advocate for Appellants, Ms. Jadhav, learned Advocate for Respondents - Corporation and Mr. Cama, learned Advocate for Applicant / Intervener.

2. There is dichotomy whether the Appellants before me are entitled to direct access to the Society's terrace or not. It is the case of Society represented by Mr. Cama as intervener that pursuant to orders

passed by Court though the access to the common terrace to all members of the Society has been restored, Appellants have however carved out an exclusive entrance to the same terrace through their flat by breaking open certain walls. This case of the Society is strongly refuted by Mr. Kamat, learned Advocate for Appellants. He would vehemently submit that the Appellants had purchased the flats from the Developer and according to the sanctioned plan, there is a clear access provided to them through flats of Appellants to the common terrace and that is required to be appreciated by the Court.

3. In view of the above, Ms. Jadhav, learned Advocate for Corporation is directed to take appropriate instructions and confirm the fact that whether Mr. Kamat is right or otherwise. If she confirms that Mr. Kamat is right, the job of the Court becomes much easier. Corporation shall confirm and ascertain the factual position on the basis of sanctioned plan in the Corporation's record and place the same on record.

4. Mr. Kamat has raised one more additional point stating that even according to the record of the Society, flat of the Appellants comes along with the terrace attached to it. Court will have to see this record. Mr. Cama shall place the record of the Society on affidavit before the Court on the next adjourned date to ascertain this position.

5. Appellants are directed to serve copy of the present Appeal from Order and Interim Application on the Society.

6. Stand over to **5th February, 2026** under the caption "**First on Board**".

Amberkar

[ MILIND N. JADHAV, J. ]

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