



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

INTERIM APPLICATION (ST) NO. 14182 OF 2026
WITH
INTERIM APPLICATION (ST) NO. 9354 OF 2026
IN
APPEAL FROM ORDER (ST) NO. 9352 OF 2026

Alla Rakhi Zahoor Sayyed

Applicant

.. (Org. Plaintiff No. 1)

IN THE MATTER BETWEEN:-

Alla Rakhi Zahoor Sayyed & Ors.

Appellants

.. (Org. Plaintiffs)

Versus

Mumbai Metropolitan Region Development
Authority

Respondent

.. (Org. Defendant)

.....

- Mr. Sagar Batavia i/by Mr. Bilal A. Motorwala, Advocates for Applicant

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CORAM : MILIND N. JADHAV, J.

DATE : MAY 8, 2026

P. C.:

1. Not on board. Mentioned by Mr. Batavia by way of filing a praecipe dated 08.05.2026. Urgent intervention of the Court is sought due to apprehension expressed about coercive action of eviction by the Officers of Mumbai Metropolitan Region Development Authority i.e. MMRDA.
2. Heard Mr. Batavia, learned Advocate for Applicant - Alla Rakhi Zahoor Sayyed in Interim Application (St) No. 14182/2026. Applicant is one of the 7 original Plaintiffs before the Trial Court in the suit proceedings. Appeal from Order is filed by all 7 Plaintiffs. There are



seven original Plaintiffs in all residing in different structures, viz; room numbers in the same building. Respondent - Defendant is MMRDA.

3. Today before the Court in present Interim Application, Plaintiff No. 1 is the sole Applicant before me. Interim Application (St) No. 14182 of 2026 is filed for seeking interim relief in respect of Plaintiff No. 1's suit premises. Interim Application (St) No.9354 of 2026 is filed by all 7 Plaintiffs / Applicants for condonation of delay in filing Appeal from Order. All Suit premises-rooms are situated in C-Wing, Building No. 2, HDIL Bhandary Mettalargy, Kurla (E), Mumbai - 400 070 each admeasuring 225 sq.ft. Ad-interim relief / interim relief is sought against MMRDA from taking coercive steps of forcibly evicting the Applicants and thereby dispossessing and / or disturbing peaceful and exclusive possession of the Plaintiffs / Applicants in respect of the suit premises.

4. Interim Application (St) No. 9354 of 2026 is heard and delay which is of a few days and negligible in filing the present Appeal from Order (AO) is condoned. Said Interim Application stands allowed accordingly. AO is taken up for hearing.

5. Present Appeal from Order (AO) is filed to assail the order dated 11.11.2025 passed by learned Trial Court dismissing Notice of Motion No. 621 of 2025 filed by Plaintiffs. Impugned order dated 11.11.2025



is passed exparte against the Defendant. MMRDA was not present when the order was passed. Copy of the impugned order is appended at page Nos. 15-20 of AO. Perusal of this order shows that Plaintiffs filed Notice of Motion for grant of temporary injunction to seek restraint order against Defendant from dispossessing, evicting and interfering with possession of their Suit premises i.e. rooms as stated in the Suit Plaint.

6. Case of Plaintiffs before the Trial Court is that they are in settled possession of the Suit premises – rooms on the basis of allotment letters and possession receipts which are appended at Exh. 'B' and Exh. 'C' to the Suit Plaint. However, Plaintiffs have stated that on 05.12.2024 officers of MMRDA visited the suit premises and threatened to evict the Plaintiffs forcibly if they failed to handover possession of the suit premises to them. According to Plaintiffs, if they have to be evicted from the suit premises then due process of law has to be followed. Case of Plaintiffs before the Court is that the suit premises were allotted to them as “Projects Affected Persons”. The building in which the said rooms are situated is a transit accommodated building. However, if that be the position, then MMRDA would have to issue legal notice to the Plaintiffs and follow due process, but since there is no legal notice issued to the Plaintiffs



Trial Court holds that there is no cause of action for filing the Suit and the Suit is itself prematured.

7. Learned Trial Court has considered the Plaintiffs' case of having relied upon photocopies of the allotment letters and possession receipts which are *prima facie* not considered to be true because authenticated copies or certified copies thereof are not produced on record. Learned Trial Court has held that since there is no supporting documentary evidence to corroborate the Plaintiffs' case of having been allotted the Suit Premises-rooms by virtue of the allotment letters and possession receipts and there are no authenticated documents placed on record to show under which authority the suit premises-rooms were allotted to the Plaintiffs, Plaintiffs have failed to make out a *prima facie* case. Learned Trial Court has also held that if the Plaintiffs are threatened by the officers of MMRDA, then they have remedy to approach the concerned Competent Authority and forum under the MMRDA Act or any other appropriate forum and therefore no cause of action has accrued to the Plaintiffs to institute the suit proceedings and file the Notice of Motion seeking temporary injunction. Learned Trial Court has held that the Suit and Notice of Motion are both *prima facie* not maintainable as there is no question of causing any irreparable loss to the Plaintiffs if injunction is refused. However despite returning above findings learned Trial Court has only



rejected the Notice of Motion without passing any further directions regarding return of the Suit Plaintiff or rejection of the Suit Plaintiff.

8. It is *prima facie* seen that MMRDA did not even appear before the learned Trial Court and therefore merely on the say of the Plaintiffs that there is threat given by the officers of MMRDA to the Plaintiffs, suit of the Plaintiffs even though is declared to be not maintainable, the Notice of Motion is rejected. Though learned Trial Court has opined on unauthorized possession of Plaintiffs in the Suit premises which is a transit camp building, the same is on merits. It is Plaintiffs' case that they are in occupation of the suit premises which were allotted to them after acquisition of their original structures for a public purpose and they were issued allotment letters and possession receipts to occupy the suit premises - rooms. These are however *prima facie* disputed questions of facts. However since the learned Trial Court has held that there is no threat to the Plaintiffs since no legal notice for dispossession has been issued by MMRDA, Plaintiffs ought to have then been granted temporary injunction if the suit is to be allowed to remain on record and file of the Trial Court. This is not a case where learned Trial Court has disposed of the suit proceedings for want of cause of action in view of the findings which are returned in the impugned order. It is *prima facie* seen that rejection of Notice of Motion is contrary to some of the findings which are returned by



learned Trial Court in paragraph Nos. 4 to 7 thereof. In that view of the matter, Applicant has made out a strong case on behalf of all Plaintiffs especially in view of the findings returned in paragraph No. 7 of the impugned order for grant of reliefs. Learned Trial Court categorically holds that Defendant MMRDA has not served any legal notice for dispossession / eviction of the Plaintiffs from the suit premises and therefore the suit is premature. Insofar as issue of unauthorized possession is concerned, if Defendant MMRDA is required to evict the Plaintiffs, then it will have to follow the due process of law.

9. In view of the above, no fruitful purpose will be served by issuing notice to the MMRDA in the present Appeal from Order and Interim Application and keeping the present Appeal from Order pending in this Court for hearing. In view of the categorical finding of the learned Trial Court that no cause of action has arisen since no notice for eviction / dispossession has been issued by MMRDA to the Plaintiffs, present Appeal from Order can be safely disposed of by this Court at this stage itself by directing MMRDA to take recourse to due process of law if it so desires to take any action for eviction of the Plaintiffs from the suit premises-rooms. Merely on the basis of the say of the Plaintiffs that officers of MMRDA threatened the Plaintiffs of eviction, the case of the Plaintiffs cannot be considered. Appeal from



Order is therefore disposed of. The impugned order rejecting the Notice of Motion stands varied to the extent that if MMRDA decides to take action for eviction of the Plaintiffs from the suit premises-rooms , it shall follow the due process of law. To that extent Plaintiffs are protected. Present Application is filed by Plaintiff No. 1 but it is seen that all Plaintiffs are faced with the same consequences and facts are identical. Here this order shall apply to all 7 Plaintiffs.

10. Learned Trial Court shall consider the present order and directions contained herein and pass appropriate orders accordingly in the suit proceedings. All contentions of the Plaintiffs and MMRDA are expressly kept open in the pending suit proceedings.

11. With the above directions, Appeal from Order (St) No. 9352 of 2026 is disposed. Equally Interim Application (St) No. 14182 of 2026 is also disposed. Accordingly, Interim Application (St) No. 9354 of 2026 also stands disposed.

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[MILIND N. JADHAV, J.]

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by RAVINDRA
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