

Salgaonkar

IN THE HIGH COURT OF JUDICATURE AT BOMBAY**CIVIL APPELLATE JURISDICTION****INTERIM APPLICATION NO.3447 OF 2026****WITH****INTERIM APPLICATION NO.3449 OF 2026****IN****FAMILY COURT APPEAL NO.74 OF 2024**

Rupal Sanjay Jain .. Applicant

Versus

Sanjay Gulabchand Jain .. Respondent

WITH**INTERIM APPLICATION NO.3424 OF 2026****IN****FAMILY COURT APPEAL NO.74 OF 2024**

Sanjay Gulabchand Jain .. Applicant

Versus

Rupal Sanjay Jain .. Respondent

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Mr.Hitesh Vyas with Mr.Rasik Raut for the Appellant/Applicant in IA/3447/26 and IA/3449/26 and for the Respondent in IA/3424/26.

Mr.Ganesh Bhujbal for the Respondent in IA/3447/26 and IA/3449/26 and for the Applicant in IA/3424/26.

**CORAM: BHARATI DANGRE &
MANJUSHA DESHPANDE, JJ.****DATE : 07th MAY, 2026**

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P.C:-

1. Interim Application No.3447 of 2026 is taken out by the wife, seeking recall of the order dated 27/03/2026.

2. We have heard the learned counsel for the Applicant and perused the order passed by us on 27/03/2026.

We do not find any ground made out to recall the said order, as according to us, the order rather protect the interest of the Applicant, but since we were of the view of that there are two flats, which are owned by the parties, and in one flat she is residing, the husband, who pleaded before us that he is now transferred in Mumbai and is entitled for the second flat, we passed the necessary directions. We, therefore do not find any merit in the Interim Application No.3447 of 2026 and the same is dismissed.

3. Pursuant to our directions in the order dated 27/03/2026, since we have noted that the premises are on lease, which has expired on 14/01/2026, we directed that the tenant shall be served with a due notice under the signatures of the Applicant/Appellant and the Respondent, asking the lessee to vacate the said flat within seven days.

4. We are informed that the tenant had made a request for extension and he continue to remain in occupation of the premises and for this purpose, the Respondent-husband has taken out Interim Application No.3424 of 2026, seeking direction to the wife to hand over vacant and peaceful possession of the flat located in the building known as 'Omeez' or in the alternative, direct the tenant to be evicted from the flat.

The learned counsel for the Applicant-husband would submit that the notice to vacate the premises was issued to the tenant, but it appears that the tenant had pleaded with the wife to grant extension, expressing that he cannot vacate the flat till the month of August, 2026.

5. We do not subscribe to the aforesaid, as we find that the lease of the premises has already expired in January 2026 and we expect the Respondent-wife to co-operate with the husband in sending a notice to the tenant giving thirty (30) days time to vacate the premises. It should be noted that the wife shall not entertain the tenant and when a notice is sent jointly, she shall insist that the flat shall be vacated within a period of thirty days, since the term of the lease with the tenant has already expired.

As far as the grievance regarding the payment of society maintenance is concerned, that aspect shall be determined on the next date of hearing.

With this clarification, Interim Application No.3424 of 2026 take out by the Applicant-husband also stands disposed of.

6. As directed by us, the wife has filed Interim Application No.3449 of 2026, seeking maintenance and we direct the Respondent-husband to file reply to the said Application, within a period of four (4) weeks from today. The Applicant, if desired, is at liberty to file a rejoinder within a period of two (2) weeks thereafter.

7. List the matter on **19th June, 2026.**

(MANJUSHA DESHPANDE, J.)

(BHARATI DANGRE, J.)