



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

APPEAL FROM ORDER (ST) NO. 13481 OF 2026
WITH
INTERIM APPLICATION (ST) NO. 13482 OF 2026

Pramod Prakash Mitra

Appellant

.. (Org. Plaintiff)

Versus

Anni w/o. Gracian Henriques & Anr.

Respondents

.. (Org. Defendants)

-
- Mr. Vishwajeet S. Kapse a/w Mr. Manoj P. Mhatre, Advocates for Appellant

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CORAM : MILIND N. JADHAV, J.

DATE : MAY 5, 2026

P. C.:

1. Not on board. Mentioned by way of filing a praecipe dated 05.05.2026.
2. Heard Mr. Kapse, learned Advocate for Appellant.
3. For the sake of convenience, the parties shall be referred to in terms of their status before the Trial Court.
4. Grievance of Appellant i.e. Org. Plaintiff is with regard to the order dated 01.04.2026 which has been passed by learned Trial Court rejecting the ad-interim relief. When matter pertaining to interim relief comes before Court, it is the duty of the Trial Court to ensure that litigant shall be fully heard before passing orders. This Court has consistently followed the practice of ensuring that appropriate



adequate orders are passed after hearing the parties by the Trial Court and only thereafter indulgence of this Court is sought for. Interference of this Court in matters where ad-interim relief is refused can be duly considered by the Trial Court after pleadings are completed. Such is the present case.

5. When the present matter is being heard today, Respondent No. 1 herein attempted to interject and appear in person. Respondent No. 1 was present all throughout in Court and was observing what the Court was doing and only when she realized that Court was going to pass an order she appeared before the Court and interrupted the Court proceedings. This is something which this Court has observed often. She ought to have intervened at the outset itself, which she did not do when Mr. Kapse argued the matter for ad-interim relief. Be that as it may, this Court does not hold anything against the Respondent in the said proceedings, save and except that when proceedings are conducted in the Court, there should be some discipline.

6. It is seen that order impugned in the present Appeal from Order (AO) is admittedly an ad-interim order. Motion is pending before the Trial Court. Mr. Kapse, learned Advocate for Appellant - Plaintiff would draw my attention to the paragraph Nos. 4 and 5 of the impugned order wherein learned Trial Court holds that Plaintiff's survey No. 164 is seen between two other Survey numbers namely



CTS Nos. 163 and 165 but the same has not been measured by the Plaintiff. Therefore learned Trial Court has opined that merely on the basis of rough sketch plan produced by the Plaintiff and / or from perusal of his agreement, it cannot *ipso facto prima facie* be considered that the Plaintiff has developed CTS No. 164 since 2006 onwards. The fact that Plaintiff has not measured his CTS number has gone against the Plaintiff because the Trial Court has opined that there are no boundary marks which are seen as can be seen from paragraph No. 5 of the impugned order.

7. Immediately after the said order is passed, Plaintiff approached the City Civil Court seeking measurement of his property - CTS No. 164. Plaintiff applied online to the City Survey Officer on 23.04.2026. He approached the City Survey Officer for seeking measurement of the subject property i.e. CTS No. 164 by filing online Application. To that immediately on the following day i.e. on 24.04.2026, Plaintiff received a reply that there is no Court's order directing them to measure the property. *Prima facie* calling for Court's order in such circumstances is also an incorrect procedure and the practice followed by the concerned government Officer. SLR should remember that he is a public servant and under the provisions of the Maharashtra Land Revenue Code, 1966 as also rules prescribed therein, there are several provisions which enable the party / owner /



holder of the land to approach the concerned officer for measurement of the property. However it appears that the concerned City Survey Officer has on his own motion called upon the Plaintiff to obtain Court's order for measurement without going into the records whatsoever therein. Be that as it may, in the interest of justice what is required to be now done is to get CTS No. 164 measured so that Trial Court will be in a position to determine the Notice of Motion No. 569 of 2026 finally on the basis of the same and in accordance with law otherwise the same situation will prevail.

8. In view of the above, City Survey Officer who has issued letter dated 24.04.2026 (appended at page No. 131 of AO) is directed to survey and measure the Plaintiff's property and prepare a map within a period of two weeks from today by giving advance notice to the Plaintiff and Defendants and all other interested persons. Measurement shall be carried out in presence of the Plaintiff and Respondents. Plaintiff and Respondents shall not argue with the City Survey Officer when the measurement exercise is going on. Costs of the City Survey Officer shall be entirely borne by the Plaintiff. Measurement will be carried out and placed before the Trial Court in a sealed envelop by the City Survey Officer. Trial Court will see the said map and thereafter if desired, give the said map to both the parties before the Court and call for their say. Thereafter Trial Court is



directed to finally hear and decide Notice of Motion No. 975 of 2026 in accordance with law after pleadings are completed.

9. In the meanwhile, if parties desire to complete the pleadings, appropriate directions shall be given to the concerned parties by Trial Court.

10. All contentions of the Plaintiff as well as Respondents before the Trial Court are expressly kept open without this Court giving its imprimatur on merits of the matter. Trial Court should not be influenced by any of the observations made in the impugned order as also this order and decide the Motion on its own merits in accordance with law.

11. With the above directions, Appeal from Order is disposed. Pending Interim Application is also disposed.

[MILIND N. JADHAV, J.]

Amberkar

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by RAVINDRA
MOHAN
AMBERKAR
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