



**IN THE HIGH COURT OF JUDICATURE AT BOMBAY  
CIVIL APPELLATE JURISDICTION**

**APPEAL FROM ORDER (ST.) NO.26911 OF 2025  
WITH  
INTERIM APPLICATION (ST.) NO.26913 OF 2025**

Neela Sudhir Shah .. Appellant  
**Versus**  
Sejal Paresh Kuvadia and Ors. Respondents

- .....  
• Mr. Anant Pai a/w. Mr. Sahil Sayyed and Ms. Vaidehi Olatikar,  
Advocates i/by Mr. Rohit Shetty for Appellant.

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

**DATE : DECEMBER 05, 2025**

**P.C.:**

- 1.** Not on Board. Mentioned by way of filing praecipe dated 05.12.2025. Perused the praecipe.
- 2.** Heard Mr. Pai, learned Advocate for Appellant.
- 3.** Notice of Motion of Plaintiff has been rejected. Plaintiff is the wife of the deceased and was resident of the subject flat alongwith the deceased and at the time of handing over the said flat, it was handed over by the deceased and the Plaintiff being husband and wife together.
- 4.** Admittedly, Plaintiff was resident of flat when it was handed over to Developer for development. Development is now completed. When Plaintiff sought possession of the re-developed flat in lieu of earlier flat, the Society has responded by stating that Plaintiff's son and



two daughters have a caveatable interest in the said flat by virtue of they being children of Plaintiff and her deceased husband and therefore Society has refused to grant hand over possession. This is informed to me by Mr. Pai

**5.** Mr. Pai informs the Court that Developer is also party to suit proceedings and they have issued a reply reiterating the aforesaid stand without filing Affidavit-in-Reply in the Notice of Motion.

**6.** He would submit that it is well settled and trite law that the person who hand over possession has to be returned back the possession of the redeveloped flat.

**7.** In that view of the matter, he would also argue that Society has no right to withhold handing over of the said flat to Plaintiff. He would submit that if at all her son and daughters have any caveatable interest in the subject flat or if they have raised objections, they can approach the Civil Court of appropriate original civil jurisdiction and seek appropriate relief therein.

**8.** Mr. Pai argues that Society has confirmed the fact that the said flat was occupied by the Plaintiff – Appellant and her husband at the time of handing it over to the Developer prior to the development.

**9.** In view of the above, the impugned order is under challenge.

**10.** Copy of this order, Interim Application and Appeal from



Order shall be served on Respondents forthwith.

**11.** Respondents are directed to remain present either through themselves or through their Pleader / Advocates on the next adjourned date and file Affidavit-in-Reply within a period of two weeks from today since in view of the aforesaid facts when the subject flat has been handed over by Appellant alongwith her husband she should be entitled to possession of the said flat back from the Developer. Affidavit-in-Rejoinder, if any, to be filed within a week thereafter.

**12.** Stand over to **06<sup>th</sup> January, 2026.**

**13.** Praecipe is disposed.

H. H. SAWANT

[ MILIND N. JADHAV, J. ]

Digitally signed  
by HARSHADA  
HANUMANT  
SAWANT  
Date:  
2025.12.06  
16:40:52 +0530