

Ajay

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

**APPEAL FROM ORDER NO. 518 OF 2025
WITH
INTERIM APPLICATION NO. 11878 OF 2025
IN
APPEAL FROM ORDER NO. 518 OF 2025**

M/s. Pratham Infra Developers (Mumbai) .. Appellant
Versus
M/s. Dhanvika Realty LLP and Ors. .. Respondents

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- Mr. Siddhesh Bhole a/w. Mr. Shreyas Vyas, Ashwin Pimpale and Faizan Shaikh, Advocates i/by Shreyas Vyas for Appellant.
 - Mr. P.J. Thorat a/w. J.S. Yadav, Advocates i/by Kamlesh Yadav for Respondent No.1.
 - Mr. Sachin Vajale, Advocate for Respondent No.3 – BMC.

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**CORAM : MILIND N. JADHAV, J.
DATE : FEBRUARY 26, 2026.**

P.C.:

1. Heard Mr. Bhole, learned Advocate for Appellant; Mr. Thorat, learned Advocate for Respondent No.1 and Mr. Vajale, learned Advocate for Respondent No.3 – BMC.

2. In the present case, from the original plot area admeasuring 2356.30 square meters, it is seen that an area admeasuring 1516.30 square meters has been acquired for road set back / garden / road widening / any other reservation. However this position is refuted by Mr. Bhole by submitting that an area admeasuring 1614.30 square meters has been acquired for set back / garden / road widening / any

other reservation. If both the aforesaid figures namely 1516.30 square meters and 1614.30 square meters are seen, then in the ultimate analysis the area falling with the area of Defendant – Society would be 741.0 square meters only leaving out an area admeasuring 98 square meters to Plaintiff.

3. The City Civil Court at the instance of Plaintiff appointed City Survey Officer to demarcate the area admeasuring 741 square meters which is under development and carve out the area admeasuring 98 square meters therein while passing the impugned order. Report has been placed on record which is dated 08.01.2026. Sum and substance stated in the Report is that the area admeasuring 98 square meters cannot be identified. The sequitur of this Report would thus be that the said area may either have been acquired for road set back / garden / road widening / any other reservation or the area which has been acquired for road set back / garden / road widening has been acquired from the property belonging to the Plaintiff as also Defendant No.2 – Society. This position is not clear. The Corporation which is the Special Planning Authority which has acquired the road set back / garden / road widening / any other reservation area would be the best person to confirm firstly the precise area of acquisition for road set back / garden / road widening / any other reservation and secondly on the basis of any map or plan that the Corporation can identify the same and place it before the Court.

4. Mr. Vajale, learned Advocate for BMC undertakes to clarify this position by filing an appropriate Affidavit and cogent material to answer the aforesaid issue. Appropriate Affidavit to that effect shall be filed within a period of two weeks from today and copy of the same shall be served on the other side.

5. Mr. Bhole would persuade the Court that in the event if the Defendant – Society is required to make good any short fall in the area to the Developer to the extent of the area that may have been acquired either for road set back / garden / road widening / any other reservation by the Corporation, the Society is ready and willing to give the necessary undertaking to that effect and abide by the same subject to the outcome of the Suit proceedings. He would therefore submit that in the interregnum the development of the Society should not be stalled and delayed considering that it is causing severe prejudice to the members of the Society.

6. Once the Affidavit from the Corporation is received clarifying the area acquired for road set back / garden / road widening / any other reservation, appropriate order shall be passed as per the request made by Mr. Bhole.

7. Stand over to **12th March, 2026.**

[MILIND N. JADHAV, J.]

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