

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY**
CIVIL APPELLATE JURISDICTION**APPEAL FROM ORDER (ST.) NO.33751 OF 2025**

Kalyani Kanji Furia and Ors.

.. Appellants

Versus

Shrikant Bhagwan Joshi (HUF) and Ors.

Respondents

.....

- Mr. Chaitanya B. Nikte a/w Mr. Prajit S. Sahane, Mr. Shubhamkar Kulkarni and Mr. Swapnil Sangale, Advocates for Appellants.s
- Mr. Abhishekh Salian, Advocate for Respondents.

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CORAM : MILIND N. JADHAV, J.**DATE : OCTOBER 13, 2025****P.C.:**

- 1.** Not on Board. Mentioned by way of filing praecipe dated 13.10.2025. Perused the praecipe.
- 2.** Heard Mr. Nikte, learned Advocate for Appellants who are Defendants before the Trial Court and Mr. Salian, learned Advocate for Respondents.
- 3.** Defendants are aggrieved by order dated 12.09.2025. Suit is filed by Plaintiffs represented by Mr. Salian seeking injunction and performance of statutory duty under the Maharashtra Ownership Flats Act, 1963 (for short '**MOFA Act**'). The contours of seeking development and substantive rights of the Plaintiffs dates back to 1992. One of the submission made by Mr. Salian is that entire conveyance is granted of the land on which development of Appellants' building is been undertaken.



4. This submission is strongly refuted by Mr. Nikte. He would strongly submit that construction of building is fully completed. He would repeatedly request to the Court that once construction is fully completed and thereafter order of injunction is passed, it would be redundant. He would submit that substantive right of Defendants in construction of the building, their investment upto Rs.6 Crores their creation of rights in respect of 2 flats already done would be hampered if injunction continues.

5. He would therefore persuade the Court to vacate the injunction or clarify the same. He would further submit that injunction be vacated only to the extent of permitting Defendants to carry out completion of the constructed building regarding its interiors and not any further. However this submission of Mr. Nikte is strongly opposed to by Mr. Salian because according to Plaintiffs, the construction is not yet completed. These are *prima facie* disputed questions of facts. Though this is a statutory Appeal filed, it is against an interlocutory order.

6. I have impressed upon either parties that if they are aggrieved by this interlocutory order dated 12.09.2025, they are free to move the Trial Court for clarification. Since giving imprimatur on facts at this stage by this Court would virtually amount to this Court entering disputed questions of facts without adjudication by the Trial



Court.

7. Hence, parties are at liberty to move the Trial Court and if at all either party moves the Trial Court, the Trial Court is requested by this Court to dispose their Application as expeditiously as possible and in any event within a period of four weeks from date of filing of such Application.

8. With the above direction, list the Appeal from Order on **20th November, 2025.**

9. Praecipe is disposed.

H. H. SAWANT

[MILIND N. JADHAV, J.]

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