

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY**
CIVIL APPELLATE JURISDICTION**APPEAL FROM ORDER (ST.) NO.33751 OF 2025**
WITH
INTERIM APPLICATION (ST.) NO.33752 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, Advocates for Appellants.
- Mr. Abhishekh Salian a/w. Ms. Kinnari Raut, Advocates for Respondents.

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CORAM : MILIND N. JADHAV, J.**DATE : MAY 05, 2026****P.C.:**

1. Not on Board. Mentioned by way of filing praecipe dated 05.05.2026. Perused the praecipe.

2. Heard Mr. Nikte, learned Advocate for Appellants and Mr. Salian, learned Advocate for Respondents who are Plaintiffs before the learned Trial Court.

3. Present case was argued before me at the time of ad-interim relief when order dated 13.10.2025 came to be passed by this Court in Appeal from Order.

4. Direction was given to either party to move Trial Court and seek appropriate directions. Trial Court has rejected the Application for appointment of Court Commissioner to ascertain the status of



construction which was the disputed focal point when the matter was argued before me.

5. According to Defendants construction of entire six storey structure as per the sanctioned plan has been completed. However the case of Defendants is strongly refuted by Plaintiffs duly represented by Mr. Salian, *inter alia*, stating that the entire FSI of land has been consumed and the land has been conveyed to the Condominium in the year 1995 and therefore any further construction which has been put by Defendants on the said land will be *dehors* the available FSI and *prima facie* illegal.

6. The *lis* between the parties which was before the learned Trial Court seeking appointment of Court Commissioner pertained to status of construction of the subject property. The subject property according to Defendants is a six storey structure which has been duly constructed and completed, save and except work of electrification, drainage and other internal works remaining therein.

7. Considering the *lis* which is pending and two further Applications which are pending before Trial Court, in order to ensure that Defendants are not at a loss since they have already invested in the property heavily by following due process of law as argued by Mr. Nikte, it is directed that Defendants shall be allowed to complete the construction of the said property without claiming any equity therein.



Defendants are directed to file such Affidavit before the learned Trial Court that they shall not claim equity on the basis of they having been allowed to complete construction of the six storey structure completely.

8. Further Defendants have informed that they have sold two floors vide two registered sale deeds. Defendants are enjoined from selling remaining units / areas / floor in the subject structure without leave of Trial Court and without putting Plaintiffs on notice. Such Affidavit and undertaking shall be filed in the learned Trial Court by Appellants before me within a period of one week from today.

9. Needless to state that if Plaintiffs succeed in the suit proceedings, the Defendants (Appellants) will not claim any equity or right in the constructed structure and the entire construction will go to the Plaintiffs in accordance with law.

10. All contentions of parties are expressly kept open subject to the decision in the Suit proceedings before Trial Court.

11. With the above directions, Appeal from Order is disposed. In view of disposal of Appeal from Order, pending Interim Application is also disposed.

H. H. SAWANT

[MILIND N. JADHAV, J.]

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