

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
INTERIM APPLICATION (ST) NO.36293 OF 2025
IN
WRIT PETITION NO.12815 OF 2023**

- | | | | |
|----|-------------------------------------|---|-----------------|
| 1. | Ms. Kiran Thaokar |] | |
| | Age: 40 years, Occ: Business |] | |
| | Residing at: B-103, Balaji Complex, |] | |
| | Sector 46A, Nerul West, |] | |
| | Navi Mumbai – 400 706. |] | |
| 2. | Mrs. Lata Keshao Thaokar |] | |
| | Age: 67 years, |] | |
| | Residing at: B-103, Balaji Complex, |] | |
| | Sector 46A, Nerul West, |] | |
| | Navi Mumbai – 400 706. |] | ... Applicants. |

V/s.

- | | | | |
|----|---------------------------|---|------------------|
| 1. | The Tehasildar |] | |
| | Tal. Vasai, Dist Palghar. |] | |
| 2. | The Collector, |] | |
| | Dist. Palghar. |] | |
| 3. | The Learned Member-II |] | |
| | and Adjudicating Officer, |] | |
| | MahaRera, Mumbai |] | |
| 4. | The State of Maharashtra |] | ... Respondents. |

Ms. Krupali H. Rajani a/w. Adv. Aafreen S. Shaikh for the Applicants.

Mr. O. A. Chandurkar, Addl. G.P. a/w. Adv. S. H. Kankal, AGP, for the Respondent-State.

**CORAM : A. S. GADKARI AND
KAMAL KHATA, JJ.**

RESERVED ON : 22nd April, 2026.

PRONOUNCED ON : 8th May, 2026.

Judgment (Per : Kamal Khata, J) :-

1) The Petition was disposed of on the basis of the Affidavit dated 27th March, 2025 filed by Mr. Avinash D. Koshti. For ready reference, we reproduce the Order dated 27th March, 2025:

1. We have heard the learned counsel for the petitioners as well as the learned Assistant Government Pleader for respondent nos.1, 2 and 4. Pursuant to the order dated 6th March 2025, the respondent no.1 – Tahsildar has submitted in his affidavit that within a period of three months from today, decisive steps would be taken to attach Flat Nos.405 and 407, as prayed for in the petitioner's representation dated 26th February 2023. This would be pursuant to the Recovery Warrant dated 23rd September 2019 issued under Section 40(1) of the Real Estate (Regulation and Development) Act, 2016.

2. The aforesaid statements are accepted. It is directed that within a period of three months from today, necessary steps in accordance with the aforesaid be undertaken. With these directions, the writ petition is disposed of.

2) As per the Order the three months expired on 26th June 2025. The Petitioners were compelled to file the present Interim Application on 13th November 2025 seeking execution of the recovery warrant by attaching and sale of said flat Nos. 405 and 407 owing to failure of Mr. Koshti to comply with the Order dated 27th March, 2025. Present Application was taken up for hearing on 10th April, 2026.

3) The Court noticed that Mr. Koshti had e-filed an Affidavit dated 18th July, 2025 on 21st July 2025. A physical copy of the same is found attached to Writ Petition No.12815 of 2025 instead of filing the said

Affidavit in Writ Petition No.12815 of 2023.

4) First of all, Mr. Koshti could not have filed an Affidavit in a disposed Petition without obtaining leave of the Court. His Advocate ought to have properly advised him in this regard and the failure to do so constitutes a grave error. Secondly, the Registry could not have accepted a physical copy in the absence of a specific order permitting such filing, particularly since the Petition had already been disposed off. The Registry too has failed in its duty to safeguard the integrity of the Court's record from manipulation or tampering.

5) In our view, the filing of the physical copy appears to have been carried out surreptitiously in Writ Petition No. 12815 of 2025, instead of Writ Petition 12815 of 2023. This appears to have been done with an intent to circumvent the undertaking given to the Court on 27th March 2025 by Mr. Koshti and to introduce a new fact namely, that the said flats in question had been sold to third parties on 12th July 2021 and 24th August 2021 respectively.

6) Considering the facts on record, we find that the undertaking furnished was erroneous and it was on this basis the Petition came to be disposed off. The Petitioner has accordingly been severely prejudiced.

7) If Mr. Koshti was desirous of exiting from the undertaking then he ought to have moved an application to the Court setting out the true facts seeking the exemption..

8) We further noticed that, learned AGP Mr. S.B. Kalel had appeared along with Mr. PP Kakade, Addl. G.P for Respondent Nos. 1, 2 and 4 on 27th March, 2025. The Affidavit dated 18th July, 2025 is also drafted and settled by AGP Mr. S.B. Kalel. While on 27th March, 2025 a solemn statement was made on Affidavit that the Order will be executed and decisive steps would be taken to attach Flat Nos.405 and 407, as prayed for in the Petitioner's representation dated 26th February, 2023, in his subsequent Affidavit dated 18th July 2025 in para No.5 a contrary statement is made on oath. Para No.5 of the Affidavit dated 18th July, 2025, reads as under:

5. I say that, thereafter pursuant to the Notices issued to the developer and society, the Chairman and further flat No.405 and 407 have been sold to one Mansa Radhemohan Shukla vide registered agreement dated 14.08.2014 bearing registration number Vasai/5/4025/2014 and flat No.407 have been sold to Mr. Nagesh Mithu Bobade and Rohini Nagesh Bobade vide agreement dated 21.08.2021. The possession of the said flats were given to Mansa Radhmohan Shukla on 12.07.2021 and further possession of Flat No.407 has been given to said Nagesh Mith Bobhade and another on 24.08.2021 the said persons have also produced Summons Cases filed by them against builder.

9) It is therefore, apparent that on 27th March, 2025, either Mr. Koshti was not aware about the flats having been sold and made a casual statement before the Court to secure disposal of the matter, or he was fully aware of the sale of flats to third parties and nonetheless made a false statement. In either scenario, Mr. Koshti is clearly at fault. He could not

have treated proceedings before the Court with such casual disregard.

10) Further, both Mr. Koshti and the learned AGP erred in filing the Affidavit without obtaining prior leave of the Court. Such conduct – filing an Affidavit in a disposed Petition with the intent to create a record and evade an undertaking-amounts to nothing short of a fraud upon the Court. The actions of Mr. Koshti are unconscionable and strike at the very conscience of the Court. They constitute a clear and deliberate attempt to mislead the Court. The AGP too, appears to have taken undue advantage of the Court's traditional reliance on statements made by Government Pleaders. This incident serves as a caution to all the Courts against placing unquestioned reliance on such statements and underscores the need for careful verification to ensure that the judicial process is not misused.

11) There is yet another significant aspect of the matter. Upon noticing that the Affidavit had been filed in a disposed petition and moreover, in totally different petition this Court, by its Order dated 10th April 2026, directed the Registry to correct the record. However, it appears that, in an attempt to shield Mr. Koshti's misconduct, the learned AGP along with certain members of the Registry or the office of the Government Pleaders (Writ Cell, High Court, Mumbai), acted in concert and connivance to surreptitiously file the Affidavit in Writ Petition No. 12815 of 2025. This was ostensibly done to portray the act as inadvertent. In reality, such filing could not have been made in Writ Petition No. 12815 of 2023, as it had

already been disposed off.

12) We reiterate that the learned AGP and Mr. Koshti have perpetrated a fraud upon this Court by filing the Affidavit dated 18th July 2025 in a disposed petition and thereafter attempting to resile from their earlier position, thereby benefiting the judgment debtor at the expense of the decree holder, who had been assured relief by this Court.

13) It is placed on record that the alleged endorsement in Writ Petition No. 12815 of 2025 has been bracketed in red for the purpose of preserving the integrity of the record.

14) We further note that, on earlier occasions, detailed hearings were conducted in the presence of the learned Advocate for the Petitioner, Smt. Rajani, Mr. Kankal, as well as the learned APP. During these proceedings, relevant statutory provisions applicable to the present case were brought to the Court's attention.

15) In our considered view, this is a fit case for initiation of prosecution under Section 340 of the CrPC (Section 379 of the BNSS) for offences including perjury.

16) We are constrained to observe that Mr. Kankal, instead of assisting the Court in a fair and impartial manner, appears to have sided with the delinquent Mr. Koshti, for reasons best known to him.

17) It is pertinent to note that both of us had cautioned Mr. Kankal, jointly and severally, regarding his conduct in supporting a delinquent party

rather than assisting the Court in arriving at a just conclusion.

18) We strongly condemn and deprecate the practice adopted by Mr. Kankal. Such conduct, in our view, amounts to tampering with the Court record and cannot be countenanced. Initially, despite repeated queries, he failed to disclose the identity of the concerned individual. It was only later that he stated that one Mr. Suresh Sawant, now retired, was involved.

19) Prima facie, it appears that Mr. Suresh Sawant is being made a scapegoat, instead of disclosing the true identity of the person responsible. This matter warrants a thorough inquiry by the Law Secretary.

20) The learned Government Pleader submitted that a clerk whose name remains undisclosed, assisted Mr. Koshti in filing the Affidavit in the disposed petition and not Mr. Sawant. It was clarified that Mr. Sawant, being a Superintendent, merely supervised the concerned staff.

21) Upon our query, the learned AGP, instead of disclosing the name of the concerned clerk, incorrectly furnished the name of Mr. Sawant, who has since retired. This, again, constitutes the making of a false statement to the Court and is wholly unacceptable.

22) The Affidavit filed today does not adequately address these issues. Despite repeated questioning, the learned APP attempted to justify the actions of the concerned Tahsildar. Such conduct prima facie amounts to tampering with the Court record and creating a false defence through

manipulation of official records.

23) At the request of the learned AGP, the matter was adjourned to 21st April 2026. Since it did not reach, it was taken up on 22nd April, 2026.

24) On 22nd April, 2026, the Government Pleader Ms Bhide appeared and tendered unconditional apology on behalf of the AGP. In her presence the AGP too offered an unconditional apology and promised never to repeat such a mistake. The Tehsildar also offered to pay his entire year's salary for the Court to condone his misadventure.

25) Considering the above, the unconditional apology from the AGP is accepted. The Tehsildar however is directed to pay his six months salary to Bar Council of Maharashtra and Goa's Advocate Academy and Research Center within a period of four weeks from the date of uploading of this Judgment on the official website of High Court, Bombay.

25.1) Details of the bank Account for payment of cost are as under:-

Account Name	:-	BCMG'S Advocate Academy & Research Center
Account Number	:-	000120110001327
Bank Name	:-	Bank of India
Branch Name	:-	Mumbai Main
IFSC Code	:-	BKID0000001
Type of Account	:-	Current A/c

26) In view of the above, Interim Application is disposed off and the Petition is restored.

27) List the Petition on 15th June, 2026.

(KAMAL KHATA, J.)

(A.S. GADKARI, J.).