

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
APPEAL FROM ORDER NO.275 OF 2026
IN
ORDER BELOW NOTICE OF MOTION NO.6692 OF 2025
IN
SUIT NO.2991 OF 2025

M/s Devdarshan Enterprises

...Appellant/
Ori. Plaintiff

Vs.

The Municipal Corporation of Greater
Mumbai & Ors.

...Respondents

Mr. Rakesh Agrawal a/w Mr. Sandeep Nirban for
Intervenor.

Mr. Sachin Vajale for MCGM.

CORAM: Milind N. Jadhav, J.

DATE : 7th March 2026.

P.C.:

1. A very serious order was passed on 19th December 2025, which reads thus:

“1. Not on board. Mentioned by way of filing a praecipe dated 19.12.2025.

2. Heard Mr. Godbole, learned Senior Advocate for Appellant and Mr. Agarwal, learned Advocate for Intervenor.

3. Suit premises is ground plus 8 storey building. The building is occupied by members of a Society for commercial purposes. Lis in the present case is that the suit structure is constructed unauthorizedly. Mr. Godbole appears for developer of the building. He would submit that members applied to the Corporation seeking repairs and repaired the building. It is alleged by Mr. Agarwal and Corporation that

under the garb of repairs Appellant constructed the building. According to Mr. Godbole building was constructed after following due process of law and pursuant to sanctioned plan issued by Corporation, copy of which is appended at page No. 84 of Petition.

4. Today the intervenor represented by Mr. Agarwal who is the original complainant with regard to the alleged construction would submit that it is a completely unauthorized construction and the alleged sanctioned plan is not even available in the Corporation record. He has intervened in the suit proceedings in the Trial Court and his Chamber Summons is pending. He would submit that he was heard at the time of passing of the impugned order.

5. Apprehension is expressed by Mr. Godbole that Corporation may take steps to demolish the suit building in furtherance of the impugned order. Without expressing any opinion or imprimatur on merits or legality of the suit structure, I direct the Corporation not to take any steps to demolish the said building in furtherance of the impugned order. Needless to state that Corporation shall place on affidavit to the satisfaction of this Court whether the building is authorized and the veracity of the sanctioned plan relied upon by Plaintiff with respect to the findings given in the impugned order.

6. Mr. Agarwal informs the Court that he would like to file Intervention Application in the present AO. If the Intervention Application is filed, this Court shall consider the same in accordance with law.

7. Mr. Agarwal would submit that the facts in the present case are extremely gross. Though he has voiced the same it would be appropriate if he files the Intervention Application so that this Court can determine the veracity of the plan which is challenged by the Intervenor. Corporation is directed to place on record the sanctioned plan of the suit structure to enable the Court to arrive at a considered decision. In the meanwhile, no coercive steps shall be taken against the suit structure.

8. In view of the above, issue notice to the Respondents made returnable on 13.01.2026. Humdast permitted. In addition to Court's notice, Appellant is directed to serve copy of the AO along with copy of this order on the Respondents and inform them about the next date of hearing by any permissible mode of service and file appropriate affidavit of service with tangible proof thereof on or before the next date. After receiving the notice, Respondents to file affidavit-in-reply within two weeks. Rejoinder if any shall be filed within one week thereafter.

9. Stand over to 13th January 2026.”

2. The matter has been listed for hearing today specifically on a court working Saturday in order to ensure that it can be taken to its logical end.

3. Mr, Vajale, learned Advocate for the Corporation is ready to argue the matter with all papers and sanctions equally the intervenor represented by Mr. Agrawal is also present in the Court. Despite notice of reminder having been given to the Appellant- original Plaintiff and he having been represented by learned Senior Advocate of this Court on the previous date, nobody is present in the Court today when the matter is called out at 12.20 hours.

4. The facts in the present case are extremely gross. Without giving any imprimatur, one final opportunity is given to the Appellant to remain present on the next adjourned date, failing which ad-interim order which has been granted in paragraph no. 5 on 19th December 2025 and continued subsequently on 2nd February 2026 shall stand vacated automatically.

5. The Applicant is directed to remain present before the Court on the next date. Copy of this order be given to the learned Advocate for the Applicant and the Applicant, by Mr. Agrawal.

6. The severeness in the present case is exhibited from the fact that admittedly the original building was a “ground+

two storey structure. The original erstwhile landlord applied for repair permission and sold the building to the present Appellant, who is the landlord. The present Appellant taking advantage of the permission for repairs granted to the erstwhile landlord pulled down the entire building and constructed a ground + basement + 8 storey building, certainly such a huge structure cannot be constructed without the blessings of the officers of the Corporation and that also overnight.

7. Be that as it may there is nothing on record *prima facie* to show that the said building is authorised. The trial Court has rejected the ad-interim relief. In such a gross case, though the procedure adopted by the Court is to remand the matter back to the trial court for hearing of Motion, in my opinion in the present facts this cannot be allowed. Be that as it may since the Appellant is not present before the Court, one final Opportunity is given to the Appellant and the learned Advocate to remain present in the next adjourned date.

8. Stand over to 13th March 2026. To be shown first on board.

BHALCHANDRA
GOPAL
DUSANE

Digitally signed by
BHALCHANDRA
GOPAL DUSANE
Date: 2026.03.10
16:48:02 +0530

[MILIND N. JADHAV J.]