

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
INTERIM APPLICATION NO. 3096 OF 2024
IN
COMMERCIAL SUIT NO. 25 OF 2024
WITH
INTERIM APPLICATION NO. 3097 OF 2024
IN
COMMERCIAL SUIT NO. 27 OF 2024
WITH
INTERIM APPLICATION NO. 3102 OF 2024
IN
COMMERCIAL SUIT NO. 88 OF 2024

Mohammed Nazim Ibrahim Shaikh & 3 Ors.

...Applicants/
Petitioners

Versus

Ali Haji Kasam & Co. Through Its Sole Proprietor &
3 Ors.

...Respondents

Mr. Ashish Kamath, Senior Counsel with Mr. Shakeeb Shaikh &
Mr. Aftab Diamondwala & Nooran Patel i/b Diamondwala & Co.,
for the Plaintiff/Applicant.

Mr. Simil Purohit, Senior Advocate a/w Mr. Vishal P. a/w Aamir
Koradia for Respondent No.1 in all suits.

CORAM : SOMASEKHAR SUNDARESAN, J.

DATE : APRIL 28 , 2026

ORDER :

1. Mr. Simil Purohit, Learned Senior Advocate on behalf of the developer tenders three demand drafts for sum of Rs. 40,00,000/- Rs.25,00,000/- and Rs. 25,00,000/- each which would add up to the

balance Rs. 90,00,000/- total sum of Rs.1,00,00,000/- payable to the Plaintiffs. The amount shall be deposited with the Prothonotary and Senior Master and the Plaintiffs will be entitled to withdraw the said with an undertaking to bring it back subject to outcome of the suit.

2. The demand drafts, drawn in the name of Prothonotary and Senior Master have been handed over to Advocates for the Plaintiffs. The Advocates for the Plaintiffs undertake to deposit it into Prothonotary and Senior Master who shall present the same for realisation. Upon realisation the Plaintiffs shall be entitled to withdraw the same towards partial discharge of the transit and arrears claimed by them.

3. Meanwhile, in the affidavits rendered for personal directions passed on the last occasion, specific units have been mentioned and crystallized to earmark the not just the units being offered in lieu of the area to be handed over in terms of the MOUs between the Plaintiffs and the Developer, but also additional units which have been proposed as being made available to the Plaintiffs in view of the arrears of transit rent. Each of these units namely the units listed in Exhibit-F (***“Page 177”***) in Commercial Suit No. 27 of 2024; Exhibit- F (***“Page 115”***) in the affidavit filed in relation to Commercial Suit No. 88 of 2022 and also

Exhibit -F “(*Page 119*)” in the affidavit filed in respect of Commercial Suit No. 25 of 2024 shall be frozen and earmarked for subject to further directions to be passed in these proceedings.

4. None of the units identified in the aforesaid three versions of Exhibit-F of the respective affidavits shall be encumbered or transferred nor shall any interest be created by the developer in respect of any of these properties. These units would be subject to further orders to be passed in this Court.

5. Mr. Purohit would submit that the computation of the area for the additional unit is being proposed. At this stage, the Court is not going into the value at which these units have been remarked. Since the units are being offered onward in terms of the order passed in the last occasion, each of these Additional Units two shall remain locked in without any third party interest being created on them.

6. Learned Advocates for the Plaintiffs shall also take instructions as to what is the precise position to be adopted by the Plaintiffs in this regard. Such position shall also be stated on oath, so that the reasonableness of both sides shall be considered by the Court when adjusting equities since the matter at this stage would clearly be driven by adjustment of equities and balancing the competing interests

of the parties pending adjudication of the suit. Such affidavits shall be filed by the Plaintiffs no later than ***May 5, 2026***. Stand over to ***May 7, 2026***.

7. All actions required to be taken pursuant to this order shall be taken upon receipt of a downloaded copy as available on this Court's website.

[SOMASEKHAR SUNDARESAN, J.]