

Digitally
signed by
VINA
ARVIND
KHADPE
Date:
2025.12.16
17:44:32
+0530

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
INTERIM APPLICATION (L) NO.32013 OF 2025
IN
APPEAL (L) NO.32010 OF 2025
WITH
APPEAL (L) NO.32010 OF 2025

Devyani Gulabsi

.. Applicant / Appellant

Versus

Saidale Co-operative Housing Society
Limited & ors.

.. Respondents

Mr. Prateek Seksaria, Sr. Advocate, a/w Mr. Vishal Pattabiraman, Mr. Rohit Agarwal i/b. Mr. Lokesh Zade, Advocates for the Appellant.

Mr. Darius Khambata, Sr. Advocate, a/w Mr. Karl Tamboly, Mr. Nirav Shah and Adv. Niharika Singh i/b. Little and Co., Advocates for the Respondent No. 1 (Society).

Mr. Zal Andhyarujina, Sr. Advocate, a/w N. N. Bhadrashete, i/b. Adv. Priyanka N. Bhadrashete, Advocates for the Respondent Nos. 2, 3, 5 to 7.

Mr. Mayur Khandeparkar, i/b. Mr. Arjun Lingalod, Advocate for the Respondent Nos. 8 to 11.

Mr. Ankit Lohia, a/w Mr. Gaurav Srivastav, Ms. Sankalpita Mullick, Ms. Sweta Nisar i/b. Sonal Doshi and Co., Adv. for the Respondent Nos. 12 to 14.

Mr. Pravin Samdani, Sr. Advocate, a/w Ms. Shachi Udeshi, Adv. Aashdin Chivalwala, Ms. Juhi Shah i/b. Wadia Ghandy and Co., Advocates for the Respondent Nos. 15 and 16.

**CORAM: B. P. COLABAWALLA &
AMIT S. JAMSANDEKAR, JJ.**
DATE: DECEMBER 12, 2025

P. C.

1. The above matter has come up on board today under the caption for ad-interim relief. Initially, we were inclined to hear the Appeal finally. However, we are not in position to do so due to paucity of time.

2. We must note that on 16th October, 2025, we had recorded that from that date till today, all that would be done, if at all, would be drawing up of the building plans, which then have to be placed before the Managing Committee of the Society. The Managing Committee then obviously will have to call for General Body Meeting for approving the said building plans. Since this was all that was going to happen between 16th October, 2025 and today, we did not pass any ad-interim order, except to say that whatever action is taken, will be subject to the out come of this Appeal, and no equities will be claimed by any party in relation thereto.

3. Today, an apprehension has been voiced by the Appellant that if certain safeguards are not put in place, third party rights would now be

created, and an irreversible situation would arise which would then render their Appeal infructuous.

4. To allay this apprehension of the Appellant, Mr Samdani, the learned Senior Counsel appearing on behalf of Respondent Nos.15 and 16 (“the Developer”), stated that before any third party rights are created, not only will this order be brought to the notice in whose favour rights are created, but those parties will be expressly informed that they will not be able to claim any equities, and the rights created in their favour would be subject to the outcome of this Appeal.

5. Mr. Samdani further stated that even if the Developer seeks to raise any finance, as more particularly set out in Clause 16 of the Development Agreement dated 6th October, 2025, the exact same *modus operandi* as mentioned above will be followed. In other words, if any finance is sought to be raised from any party including any Bank / Financial Institution / NBFC, that party will be put to notice that anything done will be subject to the outcome of this Appeal and the concerned Bank/ Financial Institution/NBFC will not claim any equities and be bound by the outcome of this Appeal. Once this is the statement made on behalf of the Developer, we are of the view that the apprehension of the Appellant, at least for time being, is redressed.

6. Mr. Samdani on instructions, stated that till date no mortgage/ encumbrance has been created in relation to the crest's premises or the development potential as contemplated in Clause 16.1 of the Development Agreement dated 6th October, 2025. The said statement is duly accepted.

7. It is made clear that the assurances given by Mr. Samdani and as recorded in this order, will operate till the next date of hearing.

8. We now place the above matter on **9th January, 2026** under the caption for ad-interim relief with the specific understanding that we may dispose of the Appeal at that stage itself, time permitting.

7. This order will be digitally signed by the Private Secretary/ Personal Assistant of this Court. All concerned will act on production by fax or email of a digitally signed copy of this order.

[AMIT S. JAMSANDEKAR , J.]

[B. P. COLABAWALLA, J.]