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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
TESTAMENTARY AND INTESTATE JURISDICTION**

INTERIM APPLICATION (L) NO. 35904 OF 2024

IN

TESTAMENTARY SUIT NO. 105 OF 1998

Vaibhav Dayabhai Patel ... Applicant

V/s.

Wavell Joseph Pereira ... Respondent

Ms. Lalita Rajguru, Ms. Darshana More for Applicant/Rajguru & Associates.
Adv. Austin Fernandes for Co-Respondent No. 3.

CORAM : FARHAN P. DUBASH, J.

DATE : 29th JANUARY 2026

P.C. :

1. By an order dated 11th May 2012, this Court recorded the undertaking of the Developer to the effect that he would give all the benefits that were given to the other tenements to the Plaintiffs as well. Accordingly, by this undertaking, the Developer expressly agreed to give the Plaintiffs a sum of Rs. 16,21,798/- and a new tenement admeasuring 470 sq. ft. in the rehabilitated construction.

2. The present application has been filed by the Plaintiff/Applicant,

who asserts that despite this order and undertaking of the Developer, the tenement admeasuring 470 sq. ft has till date not been given. He further asserts that though transit rent was given to him till 2020, thereafter the Developer has stopped giving rent.

3. When this was pointed out to the Developer, Mr. Austin Fernandes, learned Counsel who appears on behalf of the Respondent No. 3 - Developer, sought time to take instructions on the same.

4. The Plaintiff tenders a draft of the amendment in which the Prayer Clause (d) of the Interim Application is sought to be amended. The Plaintiff is permitted to carry out this amendment to the Interim Application, which shall thereafter be uploaded on or before 31st January 2026.

5. A copy of this proposed amendment is also handed over to Mr. Austin Fernandes.

6. Accordingly, stand over to 2nd February 2026.

(FARHAN P. DUBASH, J.)

Shubham Gadhavepatil