

Shephali

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
IN ITS COMMERCIAL APPELLATE DIVISION
COMMERCIAL APPEAL (L) NO. 34971 OF 2022
WITH
INTERIM APPLICATION (L) NO. 35040 OF 2022**

Chanjoti B Nag & Ors	...Appellants
<i>Versus</i>	
Mahavir Infraprojects & Ors	...Respondents

Mr Alankar Kirpekar, *with Chaitali Bhogle, i/b Sagar Kasar, for the Appellants.*

Mr Vishal Kanade, *with Depeak Rai, i/g PK Gautam, for Respondent No. 1.*

Ms Kavita M Shah, *Chairman of the Society is present.*

SHEPHALI
SANJAY
MORMARE

Digitally signed
by SHEPHALI
SANJAY
MORMARE
Date: 2022.12.06
14:52:11 +0530

**CORAM G.S. Patel &
 Gauri Godse, JJ.
DATED: 17th November 2022**

PC:-

1. Mr Kirpekar has handed over the keys to the flats of the four Appellants in Court today to the learned Advocate for the society. These will be delivered to the developer represented by Mr Kanade in the course of the day.

2. It goes without saying that under the Development Agreement of the society's property, the 1st Respondent developer is undoubtedly bound by all the terms of the Development Agreement. It is equally clear that the four Appellants, as members of the Borivali Sagar CHSL, are entitled to the same benefits as are available and promised/assured to all other members of the society. The Appellants will get neither more nor less than the contractual entitlements. The fact that the four Appellants have preferred this Appeal will not be a reason to deny them any privileges or entitlements that are assured or to which they are entitled.

3. We believe that these clarifications are sufficient. If the Appellants have adopted any other remedies, those may be prosecuted on merits. The impugned order of ***12th October 2022*** cannot and will not come into way of those proceedings.

4. In view of this clarification, Mr Kirpekar seeks leave to withdraw the Appeal.

5. The Appeal is dismissed as withdrawn. The Interim Application is disposed of infructuous.

(Gauri Godse, J)

(G. S. Patel, J)

Note: This order is modified as per order dated 5th December 2022. The corrections are shown in bold and italics in paragraph 3.