



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

920 WRIT PETITION NO. 13758 OF 2025

PANKAJ SANJAY JAIN BOKADIA AND OTHERS
VERSUS
SWAPNIL SANTOSH JAISWAL AND OTHERS

...
Advocate for the Petitioner : Mr. Muthiyan Namit Sunil
Advocate for Respondents 1 to 5 : Mr. S.M. Agrawal & Mr. D.S. Agrawal
...

CORAM : ARUN R. PEDNEKER, J.

Dated : November 19, 2025

PER COURT :-

1. Heard the learned counsel for the parties.
2. Petitioner/defendant No. 1 is present in the Court and on his instruction, the learned counsel appearing for the petitioners undertake that defendant No. 1/petitioner would not create any right, interest of the third party or transfer the suit flat No. A-701, 4BHK on seventh Floor, in A building having carpet area of 123.14 sq. meters situated in scheme name and styled as "My Home" constructed land bearing Gut No. 13/04 situated at Shahanoorwadi, Tal. and Dist. Aurangabad.
3. The learned counsel for the petitioners submits that till date his defence is not on record and he would file his written statement and the order passed by the trial court under Order 38 Rule 5 r/w. Section 151 of CPC may be taken up for reconsideration after filing of the written statement by defendant No. 1.
4. Mr. S.M. Agrawal, learned counsel appearing for the respondents/plaintiffs accepts that entire order can be reconsidered after the defence raised by the defendant No. 1 and documents produced in

support of his defence.

5. In view of the consensus, the order dated 27.10.2025 passed by the trial court is set aside on undertaking given of the defendant No. 1 in this Court that he or any of the defendants would not create any third party interest qua the suit property as noted above and that the application of the plaintiffs under Order 38 Rule 5 would be reconsidered by the court after filing of the written statement and documents that he may place on record. Application at Exh. 8 is remitted to the trial court for fresh adjudication. The present undertaking given by defendant No. 1 shall remain in force till the application is decided. All contentions are kept open.

6. The writ petition is disposed of accordingly.

(ARUN R. PEDNEKER, J.)

ssc/