

Sumedh

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

APPEAL FROM ORDER NO.800 OF 2024

K-Build Ventures L.L.P.

... Appellant
(Org. Plaintiff)

V/s.

Kandivli Priyadarshini CHS Ltd. & Ors.

... Respondents
(Org. Defendants)

**WITH
INTERIM APPLICATION NO.14699 OF 2024
WITH
INTERIM APPLICATION (ST) NO.25046 OF 2025
IN
APPEAL FROM ORDER NO.800 OF 2024**

Mr. Kalpesh Joshi a/w. Adv. Nisha Shah, Adv. Amar Parab i/by
Kalpesh Joshi Associates for the Appellant.

Mr.Mutahhar Khan a/w. Adv. Vishal Mehta, Adv. Jinal Mehta,
Adv. Anamika Tiwari, Adv. Manashvi Shah i/by MV Law Partners
for the Respondents.

CORAM : KAMAL KHATA, J.

DATED : 16TH OCTOBER 2025.

P.C. :

1. Part heard.
2. I have heard Mr. Joshi for the Appellant.
3. He relies upon a 'Development Agreement' that was circulated among the society members for their signatures.

According to him, a majority of members have signed it, and the Appellants have obtained a photocopy from one such member. This document, according to him, constitutes a concluded contract for which he seeks specific performance. In my prima facie view, since this document was neither officially issued nor duly executed in accordance with law, it cannot be construed as a concluded contract. It is not a case of enforcing an oral agreement supported by this document.

4. Mr. Joshi has not produced any judicial precedent supporting his proposition. On the other hand, the compilation of judgements tendered by Mr. Khan for the Respondent-Society overwhelmingly militates against Mr. Joshi's submission.

5. Mr. Joshi submitted that he did not have the authorities at hand but would distinguish the judgements cited by Mr. Khan but would require at least an hour to advance those submissions. Having partially heard Mr. Joshi, and in fairness to the Appellant, an opportunity must be granted to produce authorities, if any, supporting his contention. However, for want of time, it will not be possible to complete hearing today.

6. Having heard the rival submissions at some length and upon perusal of the record as shown by Mr. Joshi, I am of the prima facie view that the injunction presently operating against

Respondents does not merit continuation. The matter concerns the redevelopment of a society building - a process that necessarily spans several months. A developer with whom the Society has neither executed nor registered an formal agreement cannot be permitted to stall the entire redevelopment. The trial Court has already rejected the relief sought.

7. However, with a view to safeguard the interest of the Appellant, it is directed that any steps taken by the Respondents shall remain subject to the outcome of this Appeal.

8. Mr. Khan, on instructions, and without prejudice to the rights and contentions of the Respondents, offered to deposit a sum of Rs.50,00,000/- in Court, since Mr. Joshi claimed that the Appellant had incurred that amount. Mr. Joshi declined the offer, stating that he seeks only specific performance.

9. List the matter on **14th November 2025** under the caption 'Part Heard'.

(KAMAL KHATA, J.)