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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
INTERIM APPLICATION NO. 312 OF 2025
IN
APPEAL FROM ORDER NO. 709 OF 2019**

Bhardwaj Co-operative Housing ... Applicants
Society Limited and Others

Vs.

Rushi Constructions and Others ... Respondents

Mr. Ashok Saraogi for the Applicants.

Mr. Tarang Jagtiani i/b. Jhangiani, Narula and Associates for the
Appellant / Original Defendant No. 8.

Mr. Om Suryavanshi for BMC – Respondent.

Mr. C. K. Pendse h/f. Ms. Vandana Poojari for the Intervenor
(Occupier of the flat).

CORAM : GAURI GODSE, J.

DATE : 14th JANUARY 2025

ORDER :

1. This appeal arises out of an order passed in the notice of motion filed by the society. It is society's contention that the municipal dues liable to be paid by the appellants are sought to be recovered from the other flat purchasers i.e. members of the society.

2. Learned counsel for the society further submits that the municipal dues liable to be paid by the members of the society are

already paid. There is no dispute that the conveyance is not yet executed in favour of the society. It is further not in dispute that the flats referred to in the operative part of the order are in possession of the developer i.e. appellants.

3. Learned counsel for the society submits that as on date the municipal dues are to the extent of Rs.19,45,602/-. Notice dated 5th February 2024 issued by the corporation intimating the dues is taken on record.

4. Prima facie, I am of the opinion that the appellants would be liable to pay municipal dues with regard to the common amenities and flat in possession of the appellants. In view of the admitted facts in the case and on perusal of the reasons recorded in the impugned order, the impugned order cannot be faulted.

5. Learned counsel for the appellants seeks time to take instructions whether the appellant would pay the outstanding dues.

6. Mr. Pendse who appears for the occupier of one of the flats on instructions submits that the occupier of Flat no. E-1101 would be agreeable to pay the outstanding dues as per notice dated 5th February 2024. He on instructions submits that Ms. Vandana Poojari who is occupying Flat No. E-1101 shall pay the outstanding

dues as per notice dated 5th February 2024 within four weeks from today. Statement made is accepted as an undertaking to this court.

7. List this appeal for compliance and further directions on 25th February 2025. Till next date the corporation shall not take any coercive action for recovering dues.

[GAURI GODSE, J.]