

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

INTERIM APPLICATION NO. 7559 OF 2024
IN
FIRST APPEAL NO. 1831 OF 2024

Chandrakant L. Pujari And Ors.

...Applicants/
Appellants

Versus

Mohammed Hasan Abdul Sattar Moti And Ors

...Respondents

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CHAVAN

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Ms. Jhanvee Joshi a/w Mr. Rahul Pujari, Mr. Vithoba Masurkar i/b
Rajesh Talekar for the Applicants/Appellants.
None for Respondents.

CORAM : M.M. SATHAYE, J.
DATE : 15th DECEMBER, 2025

P.C. :

1. Heard learned Counsel for the Applicants. According to the office note, Respondent Nos. 1 to 6 are duly served. None appears for Respondents, despite service.

2. Application is filed seeking various reliefs including stay of impugned decree. Since by the impugned decree, suit is dismissed, there is no question of stay to dismissal. As such prayer of stay is rejected.

3. Learned Counsel for the Applicants, at the outset sought leave of the Court to amend and add the necessary prayer for permission to carry out repairs. Leave granted. Prayer be added during the course of the day as prayer clause (c-1).

4. The Applicants are original Plaintiffs in S.C. Suit No. 3795 of 2012 (H.C.Suit No. 1829/2012) filed against the Respondents seeking declaration that general Power of Attorney ('PoA' for short) dated 20.07.2001 is subsisting and valid and binding on the Respondents, for declaration that letter issued by the Respondents on 29.10.2009 for termination, cancellation and revocation of PoA is illegal. Permanent injunction is sought against the Respondents from terminating the general PoA. Claim for damages is also made.

5. By the impugned judgment and decree dated 16.01.2024, the suit has been dismissed.

6. During the pendency of the suit under orders dated 09.09.2014 and 03.09.2018, the Respondents were directed to maintain *status quo* which was granted under order dated 18.09.2012 by this Court. In addition, Respondents were restrained from alienating, transferring, selling and/or encumbering and/or receiving any consideration/compensation in relation to the suit property and were further restrained from accepting surrender of tenancy or allowing transfer of tenancy or collecting rent from the tenant.

7. On the date when the suit was dismissed (16.01.2024), under a separate order below Exhibit-196, the Trial Court allowed application for continuation of orders dated 09.09.2014 and 03.09.2018.

8. This Court on 12.04.2024 issued notices to the Respondents and the protection granted by the Trial Court under order dated 16.01.2024 (below Exhibit-196) has been continued.

9. It is in these circumstances that the Applicants are seeking continuation of the said interim protection and an additional prayer is made seeking permission to repair the suit building, which is stated to be in dilapidated condition.

10. Attention of the Court is invited to additional affidavit dated 23.07.2025. The same is taken on record. It is stated in the affidavit that the suit building is about 60 years old and clear signs of damage can be seen. It is stated that although the Appellants have done their best to maintain the property over the years, they have not been able to carry out full repairs because of the legal and administrative limitations. It is also stated that in order to maintain the property effectively, urgent repairs are necessary for which permission is necessary. It is further stated that the condition of the building poses immediate threat to the life of the Occupants. A certificate dated 02.07.2025 and detail structural audit report dated 23.07.2025 are placed on record along with photographs in support of the case that the suit building requires immediate repairs. Said Report certifies that several parts of the building are severely damaged and immediate repairs are required to avoid loss of property and life to occupants and passers-by.

11. It is stated that the Applicants are occupying the suit building apart from other tenants.

12. Nobody appears for Respondent, despite service, including notice through news-paper publication under orders of this Court. No reply is filed. However, it has to be borne in mind that suit has been dismissed. Other occupants of the suit building are not before the Court.

13. In view of the aforesaid facts and circumstances, a case for grant of permission to repair the suit building is made out, albeit conditionally.

14. Accordingly, the application is disposed of by passing following order which will operate during pendency of appeal.

(i) The order dated 16.01.2024 passed by the Trial Court below Exhibit-196 shall continue to operate during the pendency of the appeal.

(ii) The Appellants/ Applicants are permitted to carry out repairs and maintenance work of the suit building, at their cost with permission of and subject to compliance with applicable Rules of Municipal Corporation of Greater Mumbai as also subject to complying with any other permission/s that may be required under law.

(iii) The repair work undertaken by the Applicants shall be without prejudice to rights and contentions of both sides and the Applicants will not claim any equity for the cost incurred.

15. Interim Application is disposed of in above terms.

(M.M. SATHAYE, J.)