



IN THE HIGH COURT OF JUDICATURE AT BOMBAY  
CIVIL APPELLATE JURISDICTION

**INTERIM APPLICATION NO.15548 OF 2024**  
**IN**  
**FIRST APPEAL NO. 612 OF 1999**

Raut Industrial Co-Op. Premises Ltd.  
Through its Secretary ... Applicant.

**In the matter between:**

Shri. K. T. Kumaran (since deceased)  
Thr. LRs. Smt.Ramsmati w/o. Late K. T. Kumaran ... Appellant.

**Versus**

Raut Industrial Co-Op. Premises Ltd.  
Through its Secretary ... Respondent.

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*Mr. Drupad Patil a/w. Mr. Balasaheb Ligade for the Applicant in IA.*  
*Ms.Usha Tiwari a/w. Ms.Vandana Tiwari, for Appellant in FA.*  
*Ms. Pallavi Khare, for Respondent No.2-Corporation.*

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**Coram : Sharmila U. Deshmukh, J.**

**Date : January 07, 2025**

**P. C.:**

1. Interim Application has been preferred seeking permission for the Applicant to enter the suit premises for carrying out repairs. The Application has been preferred by the Respondent in the First Appeal, who was the original-Plaintiff, who had filed the suit against the Respondent for eviction from the suit premises which is located in the side margin of the building and was being used as garage by the Respondent-Appellant. This Court is informed that Court Receiver has been appointed and the Appellant was appointed as an

Agent of the Court Receiver upon payment of royalty and subsequently the Court Receiver has taken possession of the suit premises due to default in payment of royalty. Presently, the property is in possession of Court Receiver.

**2.** Mr. Patil, learned counsel appearing for the Applicant would submit that the Application is confined only for permission for the Contractor to enter into the side margin which is the suit premises for the purpose of carrying out the work of plastering and painting of the outer wall of the Applicant-Society which cannot be done without entering the suit premises. He would submit that there is no repairs or work of construction which would be carried out in the suit premises and there will be no change in the dimensions of the suit premises which is in possession of the Court Receiver.

**3.** Ms. Tiwari, learned counsel appearing for the Appellant-Respondent would express her anxiety, as the permission to enter in the suit premises, according to her, may result in some repairs or construction being carried out to the suit premises which will have the effect of reducing the side margin as according to her at the time when the possession was taken by the Court Receiver, the suit premises, were altered resulting in reduction of the area.

**4.** The photographs which are produced on record show that a tree has fallen in the side margin space and the prayer in the Application though seeks permission to enter the suit premises to

carry out repairs, as suggested by the structural Engineer. Mr.Patil would make a statement, on instructions, that only work which will be carried out is of plastering and painting the outer wall of the building which cannot be done without entering into the suit premises. As the suit premises is in possession of the Court Receiver and there was the proper documentation of the situation at site when the possession was handed over, there is no reason for the apprehension expressed by Ms.Tiwari. The permission which is granted to the Applicant is only to enter into the suit premises for carrying out the work of plastering and painting for the purpose of strengthening the outer wall of the Society and the statement made that there will be no work of construction or repairs carried out in the suit premises is accepted as undertaking given to this Court. As contention is raised based on photographs produced that due to falling of tree in the open side margin, without removing the tree, the suit premises cannot be entered into, the Applicant is permitted to take steps for removal of the fallen tree, subject to permissions, if required.

**5.** In light of the above, the Interim Application is allowed in the above terms.

**6.** List the Appeal on the final hearing board of **31<sup>st</sup> January, 2025.**

**[Sharmila U. Deshmukh, J.]**