

Iresh

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

**APPEAL FROM ORDER NO. 285 OF 2025
WITH
INTERIM APPLICATION NO. 8224 OF 2025
IN
APPEAL FROM ORDER NO. 285 OF 2025**

Gurukrupa Residency Co-Operative
Housing Society(P) Thr. Mr. Sameer
Maruti Ingale

.....Appellant

Vs.

Municipal Corporation of Greater Mumbai
Thr. Assistant Commissioner M/E Ward
and anr

.....Respondents

Mr. Amey C. Sawant Advocate for the Appellant
Mr. Suresh Sabrad i/b Mr. Roshan Hule for proposed respondents
Mr. Om Suryawanshi for respondent-BMC

IRESH
MASHAL

CORAM : GAURI GODSE, J.

DATE : 9th MAY 2025

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ORDER:

1. Learned counsel for the appellant-society has tendered an affidavit-cum-undertaking of seven occupants in the building. The undertaking states that if the regularisation application proposal filed by the land owner is rejected by the Corporation, they shall vacate the respective premises. The affidavit, however, does not state that if the

regularisation application is rejected, the occupants shall accept the impugned notice issued by the Corporation. Learned counsel for the appellant seeks time to file additional affidavit with regard to the said statement.

2. Two of the land owners have appeared through Advocate Mr. Sabrad. He has tendered affidavit-cum-undertaking of Mr. Sunil Suryawanshi and Mr. Vinod Borade. He submits that the land owners shall file application for regularisation before the Corporation. He also seeks liberty to file an appropriate application to intervene in this appeal as well as in the suit. Learned counsel appearing for the land owners on instructions submits that on development agreement executed by them alongwith other co-owners, respondent no. 2 have constructed the building which is occupied by the members of the plaintiff. The owners do not dispute that the building is constructed unauthorisedly. On a query being made to the learned counsel for the owners as to whether the owners would take the responsibility to rehabilitate the members of the plaintiff in the event the regularisation application is not allowed, he seeks time to respond to the said query and file appropriate affidavit.

3. The owners are granted liberty to file appropriate application to intervene. The appellants are granted time to file additional affidavit regarding accepting the impugned notice, in the event the regularisation application is not allowed. The assurances and the undertakings recorded in the affidavits that are tendered today, are accepted as undertakings to this Court.

4. The affidavits filed by the occupants also states that they would be residing in the premises at their own risk.

5. Learned counsel for the Corporation submits that he would take necessary instructions with regard to the regularisation application i.e. proposed to be filed by the owners.

6. List this appeal on 13th June 2025.

7. Till the next date, in view of the aforesaid undertakings, the Corporation shall not take any coercive action to demolish the building as per the impugned notice. It is further clarified that the occupants i.e. the members of the plaintiff-society and the land owners shall reside in the said building at their own risk.

[GAURI GODSE, J.]