

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

APPEAL FROM ORDER NO. 333 of 2025
WITH
INTERIM APPLICATION NO. 13488 OF 2025
WITH
INTERIM APPLICATION NO. 8599 OF 2025

Anita Ashok Mapuskar ... Appellant

V/s.

Municipal Corporation Of Greater Of ... Respondents
Mumbai And Anr

WITH
APPEAL FROM ORDER NO. 335 of 2025
WITH
INTERIM APPLICATION NO. 13489 OF 2025
WITH
INTERIM APPLICATION NO. 8603 OF 2025

Manik Gajanan Thakur ... Appellant

V/s.

Municipal Corporation Of Greater Of ... Respondents
Mumbai And Anr

WITH
APPEAL FROM ORDER NO. 336 of 2025
WITH
INTERIM APPLICATION NO. 13490 OF 2025
WITH
INTERIM APPLICATION NO. 8604 OF 2025

Rajkumar Gamandas Ramchandani ... Appellant

V/s.

Municipal Corporation Of Greater Of ... Respondents
Mumbai And Anr

Digitally
signed by
VARSHA
DEEPAK
GAIKWAD
Date:
2025.12.02
15:38:19
+0530

WITH
APPEAL FROM ORDER NO. 337 of 2025
WITH
INTERIM APPLICATION NO. 13491 OF 2025
WITH
INTERIM APPLICATION NO. 8607 OF 2025

Pushpalata Pandurang Ale. ... Appellant

V/s.

Municipal Corporation Of Greater Of ... Respondents
Mumbai And Anr

WITH
APPEAL FROM ORDER NO. 338 of 2025
WITH
INTERIM APPLICATION NO. 13492 OF 2025
WITH
INTERIM APPLICATION NO. 8610 OF 2025

Sudhir Sambhaji Jadhav ... Appellant

V/s.

Municipal Corporation Of Greater Of ... Respondents
Mumbai And Anr

WITH
APPEAL FROM ORDER NO. 334 of 2025
WITH
INTERIM APPLICATION NO. 8601 OF 2025

Amol Pandharinath Vedak ... Appellant

V/s.

Municipal Corporation Of Greater Of ... Respondents
Mumbai And Anr

Mr. Amit Ashok Gharte, for the Appellants.

Mr. Sachin Vajale i/by Komal Punjabi, for the BMC.

CORAM : MILIND JADHAV, J.

DATE : 1ST DECEMBER 2025

PC:

1. I have heard Mr. Gharte, the learned counsel appearing on behalf of the Appellants and Mr. Vajale, learned Advocate for the BMC.

2. I have considered the facts of the present five Appeal from Orders before me. One of the Appeal from Order is not listed on board today that Appeal from Order is Appeal from Order No. 334 of 2025. The Appellant is Amol Pandrinath Vedak therein. It is taken on record and heard today. All six Appeal from Orders are on the same footing.

3. It is seen that the Appellants are plaintiffs before the Trial Court and are aggrieved with the ad-interim order dated 19/05/2025 which is *prima facie* identically passed in all the six suits. Hence, they have approached this Court. The appellants were protected by ad-interim relief granted by this Court which was extended from time to time thereafter. Today, Mr. Gharte has taken me through the record of the case. Since all six Appeal from Orders are identical, the facts in one of the Appeal from Order namely the lead Appeal from Order i.e. Appeal from Order No. 333 of 2025, filed by Anita Ashok Mapuskar are referred to for the sake of reference and convenience. Every document rather all documents referred to and relied upon by the plaintiffs – appellants in support of their case are identical. The impugned action of the Corporation begins with issues of issuance of notice under Section 53 (1A) which is dated 15/03/2025 in all six cases. Issuance of such a notice *prima facie* envisages that structures of the appellants are

unauthorised and what at all the Corporation seeks are sanctioned plan for the said structures.

4. The designated officer of the Corporation has heard the plaintiffs and passed the impugned order dated 29/04/2025 in all six cases rejecting the case of Appellants-Plaintiffs. To challenge the said order, the plaintiffs have rushed to the Court. The Court is the last -bastion of the aggrieved parties when there is no other option available to them in law when parties fear that the roof over their head is taken away. By virtue of the impugned order, which is an ad-interim order protection has been refused to the plaintiffs/appellants on 19/05/2025.

5. It is seen from the record that the six appellants before me are residents of one Rakhmabai Chawl situated at Mithanagar, Mulund (East), Mumbai in respect of independent and separate rooms having dimensions upto 200 sq. ft. in respect of all six appellants. When the impugned notice under Section 53-A was received and hearing was granted to appellants, they referred to and relied upon substantial documents rather documentary evidence to show existence of their structures since long. All six appellants referred to and relied upon issuance of ration cards to them to show their existence and address of the suit structures as far as back in the year 1987, copies of which are appended at 'Exhibit-E'. They relied upon property tax bills and having transferred the property tax assessment on to their names as far as back in the year 1988-1989 (Exhibit---). They relied upon rebate given to them in respect of property tax assessment by the Assessment Collector vide letter dated 27/10/2003 appended at 'Exhibit---'. They placed on record the water bills in respect of water collection supplied

to the suit property i.e. their rooms and Rakhmabai Chawl dating back to 1996 as also in the case of at least two out of the six appellants before me relating to transfer to assessment tax bills in the year 1993. All six appellants have referred to and relied upon electricity bills issued by the then MSEB (Electricity Provider) in the year 1987 and most importantly their names being on the electoral roll published by the Election Commission of India in the year 1983-1985 showing their address of the suit structures. In each of the appellants' case before me, I have found that the appellants' structures have been in existence since long duly verified by documentary evidence on record. Some appellants may be subsequent purchasers of their said structures but the entire chain of agreements of transfer of the Rooms/structures have been placed on record. Though it can be argued by the Corporation that they are not registered documents but what needs to be ascertained in the present case is the fact that the appellants have transacted and transmitted independent rooms admeasuring between 100 sq. ft and 200 sq. ft in the said Rakhmabai Chawl. Pursuant to the title and interest in the said rooms having been transferred from the original owner i.e. the Mhatre Family. Rakhmabai Mhatre happened to be the matriarch of the Mhatre Family under whose name the said Chawl was nomenclatured sometime in the year 1955-1956.

6. *Prima facie* there is material available on record to show the existence of the structures/rooms from 1958-1959 onwards when the Chawl was built. The existence of the Appellants is confirmed as long standing tenants of Rakhmabai Chawl in the deed of conveyance entered into by the present landlord/ owner of the land on which the said structures/rooms are standing. Names of all 51 tenants whose

tenancy is attorned to the new landlord are recorded in the Registered Conveyance of 2013. That registered deed of conveyance is appended at page No. 110 and list of tenants is appended at page No. 133 wherein *prima facie* it is seen that all six appellants before me or in the case of two of the appellants their predecessor-in-title have been attorned as tenants and occupants in respect of their respective rooms/structures. The singular ground for rejection of the appellants case by the designated officer is that the appellants have failed to produce any documentary evidence prior to the datum line. Such a ground in respect of the structures of the appellants which are admittedly residential occupation could never have been passed when initiation of action by the corporation under Section 53 (1A) of the MRTP Act, which alleges that the structures are unauthorised. Rather it is not permissible for the designated officer to take such a stand for rejecting the case of the appellants structures which are residential user. The issue of datum line would be applicable to existence of commercial structures. There is overwhelming evidence which is mentioned hereinabove which *prima facie* shows existence of Rakhmabai Chawl (बैठी चाळ) since 1959-1960 and this is further confirmed and fortified by the fact that the 7x12 revenue extract appended at page No. 59 *prima facie* shows the holder of the structures to be four members of the Mhatre family. The documents which are referred to hereinabove qua Appeal from Order No. 333 of 2025 also incidentally find mention qua the appellants/plaintiffs in the remaining five Appeal from Orders also and I have perused the same. When all requisite details existence of the structures of the appellants/plaintiffs have been placed on record, the impugned order

has not even considered it *prima facie* and has rejected ad-interim relief.

7. Today, at the request of Mr. Vajale, learned Advocate for the Corporation, I am giving him time for two weeks to file affidavit-in-reply to justify the stand of the Corporation.

8. Since in view of the aforesaid *prima facie* strong facts, the Corporation is directed not to take any coercive steps whatsoever against the structures of the plaintiffs - appellants before me until the present Appeal from Orders are decided by this Court. Affidavit in reply in all six Appeal from Orders is permitted to be filed within two weeks from today and same shall be considered on the next date and appropriate further order shall be passed for disposal of the present Appeal from Orders in accordance with law.

9. It is clarified that if the Corporation does not file affidavit-in-reply, this Court shall not await their reply and decide the Appeal from Orders on their own merits and in accordance with law.

10. List all six A.O.'s on **15th December 2025**.

(MILIND JADHAV, J)