

HARSHADA H. SAWANT
(P.A.)

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

APPEAL FROM ORDER NO.664 OF 2025

Modi Navnirmal Limited

.. Appellant

Versus

Dr. Ramesh Chandra Satyadeo Tiwari and Ors.

Respondents

.....

- Ms. Neeta Jain a/w. Ms. Divya D. Dave, Advocates i/by Lex Services for Appellant.
- Mr. Aditya Kanchan, Advocate i/by Lakshyavedi Legal for Respondent No.3.

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CORAM : MILIND N. JADHAV, J.

DATE : DECEMBER 11, 2025

P.C.:

1. Heard Ms. Jain, learned Advocate for Appellant and Mr. Kanchan, learned Advocate for Respondent No.3.

2. Mentioned by learned Advocates at the time of rising. Matter is mentioned citing exigency expressed by Ms. Jain. She would submit that Appellant is Developer. Mr. Kanchan has also entered appearance and he espouses the cause of Respondent No.3 - Society. He informs the Court that there are two Societies. His Society has 49 members and Respondent No. 4 - Society has 51 members. According to him 101 members are to accrue the benefit of redevelopment. Ms. Jain would submit that Development Agreement is executed on 17.02.2025 and Developer has paid corpus fund to each and every member save and except Respondent Nos.1 and 2 (Original Plaintiff)

who have refused to accept the same in respect of 4 units held by them in the Building. She would submit due to the Suit filed by Respondent Nos. 1 and 2 in the Trial Court and the embargo placed by the impugned order, the Developer is unable to proceed further with redevelopment since July 2025.

3. Mr. Kanchan supplements what Ms. Jain has submitted and informs Court that all Society members have already accepted corpus fund and appropriate resolution has been passed but in view of non-acceptance of corpus fund by Respondent Nos.1 and 2 further steps for complying with scrutiny are hampered.

4. Ms. Jain would inform the Court that Developer has taken steps for processing the development proposal and paid scrutiny fee but in view of the impugned order, scrutiny has not taken place since July 2025. The impugned order is appended at page No.15 which is an ad-interim order.

5. Facts reveal that Respondent Nos.1 and 2 are using their 4 Units as a nursing home and it is their case that they have converted user of their 4 residential units into commercial units for use as a nursing home / hospital and probably this is the reason as to why they have not accepted the corpus fund and have approached the Trial Court.

6. It is quite apparent that Respondent Nos.1 and 2 will be

expecting commercial premises in lieu of their existential 4 units in the redeveloped property. This would depend on their entitlement in law and undoubtedly be subject to adjudication in the *lis*. In this scenario, Court fails to understand as to why redevelopment of the entire project should be stalled because of this one member and his *lis*.

7. Ms. Jain would fairly inform the Court that Respondent Nos 1 and 2 have produced certain documents which enabled them to convert the user of their premises to a Nursing Home / Hospital, but that would be matter of argument and adjudication in the *lis* filed by them and would largely depend on their substantive right and documentary evidence.

8. The immediate concern of the Developer and Members of both Societies which is voiced by both the learned Advocates is that steps for redevelopment are completely stalled for the past more than 4 months and scrutiny has not taken place. This inevitably leads to delay. Investment of Developer, delay in going ahead with the project, rights of Society Members all get jeopardized.

9. On the above facts *prima facie* an arguable case has been made out by Ms. Jain and Mr. Kanchan who is supporting the Defendant for vacating the stay given by the Trial Court since Developer is unable to proceed further. Any order directing the Corporation to not to proceed with the proposal for redevelopment in

such facts is unfathomable.

10. In the *lis* between the Respondent Nos.1 and 2 and the Developer / Society such a wide sweeping order not to process the proposal for redevelopment and halt the scrutiny of the proposal is clearly uncalled for and therefore the Court will have to step in.

11. Copy of this order shall therefore be served on Respondent Nos.1 and 2 who are Plaintiffs in the Trial Court. They are directed to remain present either through themselves or through their pleader / representative. They are directed to file their Affidavit-in-Reply and apprise the Court accordingly on the next adjourned date about their stand.

12. Needless to state that any legitimate right of Respondent Nos.1 and 2 in the premises or in the alternate premises will have to be adjudicated on the basis of their evidence / subject right. This Court is concerned with the larger interest of all Society Members and the delay.

13. Stand over to **18th December, 2025**. To be placed under the caption '**For Directions**'.

H. H. SAWANT

[MILIND N. JADHAV, J.]

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