

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

SECOND APPEAL NO.589 OF 2025

Adinath Co-operative Housing ... Appellant
Society Ltd through its Secretary Mr.
Dharmil R. Mehta

V/s.

Manju Chawla ... Respondent

WITH

SECOND APPEAL NO.590 OF 2025

Adinath Co-operative Housing ... Appellant
Society Ltd through its Secretary Mr.
Dharmil R. Mehta

V/s.

Bimal H. Burman and Anr. ... Respondents

WITH

SECOND APPEAL NO.591 OF 2025

Adinath Co-operative Housing ... Appellant
Society Ltd through its Secretary Mr.
Dharmil R. Mehta

V/s.

Ranjan Tiwari and Anr. ... Respondents

Mr. Kapil Shah i/by M.K. Juris Associates, for the appellant in all
second appeals.

Mr. Satish Dedhia, for the respondents in all.

CORAM : N.J. JAMADAR, J.

DATE : 12TH NOVEMBER 2025.

ORAL ORDER:

1. Heard the learned counsel for the parties.
2. The challenge in this petition is to an order dated 25th July 2025 passed by the Maharashtra Real Estate Appellate Tribunal, whereby the appellant-Society has been restrained from creating third party interest in regard to flat no. 302 till the decision of the stay petition.
3. Initially, the appellant- Society had made a statement before the Appellate Tribunal that it will not create third party rights with regard to the flat no.302 till the decision of the appeal. However, the appellant subsequently sought to withdraw the said undertaking.
4. In that background, the Appellate Tribunal has passed the impugned order, thereby restraining the appellant-Society from creating third party interest in regard to flat no.302, till the decision of the stay petition, and also directed the appellant to deposit costs of Rs. 10,000/- in the Tribunal.
5. The learned counsel for the appellants submitted that the impugned order was passed without providing an effective opportunity of hearing to the appellants. The learned counsel for the respondents disputes this position and submits that more than adequate opportunity was given to the appellant.
6. Having regard to the nature of the impugned order, which the Appellate Tribunal was constrained to pass on account of the withdrawal of the undertaking not to create third party interest in regard to flat no.302. This Court does not find any justifiable reason to

entertain the appeal within the parameters of Section 100 of the Code of Civil Procedure.

7. Since a grievance is made that the stay applications are not heard, it would be appropriate to provide that the impugned order shall operate as an ad-interim order till the hearing and final disposal of the stay applications preferred by the respondents, being M.A No. 44 of 2024, 45 of 2024 and 46 of 2024. In fact, the impugned order clarifies that the stay shall operate till the decision of the stay petition.

8. The appeals, thus, stand disposed with a request to the Appellate Tribunal to hear and decide the stay applications as expeditiously as possible and, preferably, within a period of six months from the date of completion of the pleadings.

(N.J. JAMADAR, J)