

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

INTERIM APPLICATION NO. 3792 OF 2025

IN

FIRST APPEAL NO. 1741 OF 2024

Sewri Nilgiri Udyog Bhavan Co-Op. Society Limited ...Applicant

Versus

M/s. M. B. Development Corporation, Mumbai And ...Respondents
Ors.

Adv. Shah Akash Paresh for the Applicant.
Ms. Vidya Vyavhare for the Respondent-Corporation.

Coram : Sharmila U. Deshmukh, J.

Date : April 21, 2025.

P. C. :

1. Interim Application has been preferred seeking permission to carry out repairs and maintenance of land bearing C.S. No. 841 admeasuring 1388 sq. yds connecting Tokersey Jivraj Road, Bombay-400 015 with the Applicant's premises to make it usable for use by the members of the Applicant, heavy transport vehicles and public.

2. The request is opposed by learned Counsel appearing for the Respondent No. 1, contending that the decree of the Civil Court only grants right of ingress and egress. He further submits that the photographs at page nos. 230 and 231 would indicate that the entire stretch of road is motorable road and there is no need of repairs. He submits that he is owner of the premises and if permission is granted

for cementing the road or making tar road the same will seriously prejudice his rights.

3. Learned Counsel for the Applicant in rejoinder would submit that the photographs which are at page nos. 230 and 231 selectively shows only those portion which are in proper stage and not for entire stretch of road. He would dispute that the Respondent No. 1 is owner of the land.

4. The photographs which are at page nos. 230 and 231 have been placed on record to demonstrate that the stretch of road is motorable and do not require any repairs. In event, the same does not reflect the position of the entire stretch of road, time of one week is granted to the Respondent No. 1 to ensure that the entire stretch of road is in the same position as is demonstrated by the photograph at page nos. 230 and 231.

5. This Court contemplates appointment of Court Commissioner on the next date to verify the position at site. Only after the actual position at site is ascertained, the application will be considered.

6. Stand over to **5th May, 2025** (Direction).

[Sharmila U. Deshmukh, J.]