

HARSHADA H. SAWANT
(P.A.)

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
TESTAMENTARY AND INTESTATE JURISDICTION

APPEAL FROM ORDER (ST.) NO.31946 OF 2025

Priti Jayprakash Dhotre and Anr. .. Appellants

Versus

Tilak Nagar Jai Hind Co-operative Housing
Society Ltd. And Ors.

Respondents

WITH
INTERIM APPLICATION (ST.) NO.31947 OF 2025
WITH
INTERIM APPLICATION (ST.) NO.31948 OF 2025

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- Mr. Sidheshwar N. Biradar i/by Mr. Kishor Patil, Advocates for Appellants.
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CORAM : MILIND N. JADHAV, J.

DATE : OCTOBER 13, 2025

P.C.:

- 1.** Not on Board. Mentioned by way of filing praecipe dated 13.10.2025. Perused the praecipe.
- 2.** Heard Mr. Biradar, learned Advocate for Appellants.
- 3.** For the reasons mentioned in the Application, Interim Application (Stamp) No.31947 of 2025 for condonation of 14 days delay is allowed. Delay stands condoned.
- 4.** Interim Application is allowed and disposed.
- 5.** Plaintiff is aggrieved with order dated 08.08.2025. Plaintiffs and Defendant Nos.3 and 4 are at loggerheads in separate suits regarding entitlement to the suit flat. According to Plaintiffs they were

residing in suit flat originally prior to the redevelopment and they were members of Society and therefore they claim preemptory right in the subject suit flat. Whatever may be the legal or juridical right of Plaintiff to occupy the suit flat, that will have to be determined in the substantive suit which is pending against Plaintiffs' maternal aunt who are sisters of the Plaintiffs' father and are also claiming entitlement.

6. All that Trial Court has stated in paragraph No.3 is that since there is a dispute between parties over the disputed flat which is yet to be decided by the Court, Society cannot transfer the suit flat. Today a limited request is made by Mr. Biradar that in view of the aforesaid facts Plaintiffs are required to stay on rent and are out of pocket, hence they should be allowed to stay inside the suit flat. However such a request though however benevolent in nature, cannot be allowed by Court. That is precisely the reason as to why learned Trial Court has rejected the Notice of Motion. However, it shall be open to Plaintiffs to apply to Trial Court to seek orders for preservation, augmentation and protection of the subject flat in the meanwhile whichever way possible according to Plaintiffs.

7. In so far as the impugned order dated 08.08.2025 is concerned, I am not inclined to interfere with the same. Learned Trial Court has held that if at the interim stage the flat is handed over to Plaintiffs, it would amount to grant of final relief at the interim stage.

I agree with this finding returned by the learned Trial Court. However keeping the options for Plaintiffs open to seek preservation, augmentation and protection of the subject flat in the interregnum, Plaintiffs can apply to the learned Trial Court accordingly as available to Plaintiffs in law and seek appropriate orders.

8. In the present scenario, after listening to Mr. Biradar if direction is given to Trial Court to expedite the suit proceedings between the parties it will enure to the benefit of its rightful owner. Considering that Suits are pending for past more than four years, I am inclined to do so.

9. In that view of the matter, Short Cause Suit No.2134 of 2022 and Suit No.1350 of 2023 are directed are to be clubbed and heard together and if required evidence be recorded in common in them depending upon the issues framed therein and the Suits be decided within a period of 6 months to ameliorate the exigency and difficulty of both the parties before the Trial Court. This is the best order that this Court can pass in the above circumstances.

10. Mr. Biradar is not opposed to passing of such order.

11. All contentions of both the sides are expressly kept open.

12. In that view of the matter, Appeal from Order is disposed in the above terms. Interim Application (Stamp) No.31948 of 2025 is

also stands disposed. Interim Application (Stamp) No.31947 of 2025
is also disposed.

H. H. SAWANT

[MILIND N. JADHAV, J.]

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