

Amberkar

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

APPEAL FROM ORDER NO. 632 OF 2025
WITH
INTERIM APPLICATION NO. 13420 OF 2025

Suresh Gulabrao Patil & Ors.

Appellants

.. (Org. Plaintiffs)

Versus

Ulka Chandrashekar & Ors.

Respondents

(Org. Defendant Nos. 1 & 2 and
.. Prop. Defendant No. 3)

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- Mr. Aadil Parsurampururia i/by M/s. Legal Vision, Advocates for Appellants
- Ms. Neeta Jadhav i/by Ms. Komal Punjabi, Advocates for Respondent No. 2 - Corporation

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CORAM : MILIND N. JADHAV, J.

DATE : NOVEMBER 24, 2025

P. C.:

1. Heard Mr. Parsurampururia, learned Advocate for Appellants - Org. Plaintiffs and Ms. Jadhav, learned Advocate for Respondent No. 2 - Corporation i.e. Org. Defendant No. 2.

2. Plaintiffs have filed Suit seeking declaration and injunction against the original owner of land i.e. Respondent No. 1 in respect of the portion of the entire property. According to Plaintiffs, they seek declaration and injunction in respect of suit premises admeasuring about 1000 sq.ft. occupied by them for the past 55 years and having perfected their title.

3. Mr. Parsurampuriah would submit that Respondent No. 1 availed borrowing from Respondent No. 3 - Bharat Co-operative Bank Ltd and in lieu thereof mortgaged one bungalow admeasuring 4407 sq.ft. carpet area along with land admeasuring 1286 sq. mtrs. bearing Plot No. 8, CTS No. 1278, Survey No. 82 of Village Versova, Taluka Andheri (W), Mumbai - 400 061. Case of the Plaintiffs is that notice dated 31.10.2025 (appended at page Nos. 79-80 of AO) was served on the owner regarding taking over possession of the secured assets and it was stated therein that Advocate Court Commissioner would be arriving at the above property on 21.11.2025 at 12.30 a.m. (midnight) for the purpose of taking peaceful possession of the secured assets for which he had sought police protection. Plaintiffs who are occupying the structure on the suit property for the past more than 55 years as averred by them have filed the Suit proceedings and are aggrieved with the roznama dated 20.11.2025 (appended at page No. 83 of AO) i.e. one day prior to the intended date of taking over possession. Suit is filed by Plaintiffs in 2020 but in view of the aforesaid impugned action, Plaintiffs moved Chamber Summons for impleading the bank as party to the Suit proceedings and seeking amendment. The draft Chamber Summons was given to the Court which granted leave to register the same but ad-interim relief was refused. Though there is no specific refusal of ad-interim relief in the roznama order, according to

Mr. Parsurampuriah it was prayed for and no order was passed. He would submit that refusal of ad-interim relief keeps the question open for the bank to come at any moment on the suit property and take over the entire property including the structure of the Plaintiffs. Apprehending such action, he has moved the present Appeal from Order before this Court.

4. In view of the above, the moot question is as to whether the Bank took any action on 21.11.2025 as stated in the notice. Mr. Parsurampuriah informs the Court on instructions that the Bank did not take any action whatsoever on that date but because of the fear that the Bank may come at anytime, he has moved the Court.

5. Since the Chamber Summons is moved for impleading the Bank and also seeking interim protection, no purpose whatsoever will be served by keeping the present AO pending here by passing any ad-interim or interim order rather interest of justice would be served if appropriate directions are given to the Trial Court to determine the Chamber Summons in which Plaintiffs have sought ad-interim /interim relief to be decided by the learned Trial Court in accordance with law. Advocate Court Commissioner notice issued on behalf of Bank has not been fructified and the date has lapsed. Fresh date is not known. This is one more reason for me to pass the present order.

The matter before the Trial Court is now slated to be heard on 10.12.2025.

6. In view of the aforesaid facts, learned Trial Court is directed to decide the Chamber Summons which is mentioned in the roznama dated 20.11.2025 as expeditiously as possible and in any event within a period of four weeks from today.

7. In the meanwhile, Bank i.e. Bharat Co-operative Bank Ltd is directed not to take any coercive steps in respect of the area of the structure of Plaintiffs and the land thereunder until the Chamber Summons is decided and if at all the Bank desires to do so, liberty is given to the Bank to approach the Civil Court and make appropriate Application in the pending Suit which has been filed by Plaintiffs. Copy of this order shall be served on the owner and the Bank forthwith by Advocate for Plaintiffs for information.

8. All parties are directed by this Court to act on a server copy of this order downloaded from High Court Website.

9. Liberty to apply.

10. With the above directions, Appeal from Order and Interim Application are both disposed.

[MILIND N. JADHAV, J.]