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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

INTERIM APPLICATION NO.13635 OF 2025
IN
FIRST APPEAL NO.113 OF 2015

Mr. Kadarkhan Adamkhan & Ors. ...Applicants

In the matter between:

Mirza Zulfikar Ali ...Appellant

Versus

Mr. Kadarkhan Adamkhan & Ors. ...Respondents

WITH
INTERIM APPLICATION NO.13607 OF 2025
IN
FIRST APPEAL NO.113 OF 2015

Mariam Bi Adam Khan & Anr. ...Applicants

In the matter between:

Mirza Zulfikar Ali ...Appellant

Versus

Mr. Kadarkhan Adamkhan & Ors. ...Respondents

WITH
INTERIM APPLICATION NO.13634 OF 2025
IN
FIRST APPEAL NO.113 OF 2015

Mirza Zulfikar Ali ...Applicant/Appellant

Versus

Kadarkhan Adamkhan & Ors. ...Respondents

Mr. Joel D'Souza a/w. Mr. Ivor Peter D'Cruz, Mr. Pierre Fernandes, Ms. Elaine Fargose i/b Mr. Ivor Peter D'Cruz, for the Applicant-Appellant in IA No.13634 of 2025.

Ms. Pallavi Khale i/b Ms. Komal Punjabi for BMC-Respondent No.8.
Mr. Rajendra Rathod a/w. Mr. M. Shaikh , Mr. S. Ahmed for Respondent No.9
Mr. U. S. R. Singh for Respondent Nos.1 and 2 in IA No.13607 of 2025
and for Applicant in IA No.13635 of 2025.

CORAM : JITENDRA JAIN, J.

DATED : 2 DECEMBER 2025

P. C.:

INTERIM APPLICATION NO.13607 OF 2025

1. This application is taken out by respondent No.2 (original plaintiff No.2) to bring legal representatives of respondent Nos.4 and 5 on record, since the said respondents have passed away. The applicant also seeks other reliefs.
2. I have heard learned counsel for the parties and on being satisfied, the legal representatives of deceased respondent Nos.4 and 5 are permitted to be brought on record. Appellant to amend the appeal memo to bring legal heirs of respondent Nos.4 and 5 on record as per schedule annexed to the Interim Application at page 12. Amended copy to be served on all the parties. This exercise should be completed within four weeks from today. Re-verification is dispensed with.
3. Parties to jointly file a convenience compilation of documents/paper book within four weeks from today.
4. Records & Proceedings be called for.

5. List this main appeal for hearing after the above exercise is carried out.

6. Interim Application is disposed of in above terms.

INTERIM APPLICATION NO.13635 OF 2025

7. The name and address of respondent No.7 to be amended and the correct name and address to be mentioned. Said amendment to be carried out forthwith in the copies of all the parties and the Court.

8. This application is taken out for early hearing of the First Appeal. By a separate order in Interim Application No.13607 of 2025. I have already mentioned the schedule leading to the hearing of the main appeal. Therefore, no further orders are passed in this application.

9. Insofar as prayer clause (b) is concerned, same will be dealt with in IA No.13634 of 2025.

10. Interim Application No.13635 of 2025 is disposed of.

INTERIM APPLICATION NO.13634 OF 2025

11. This application is taken out for modification of order dated 23 March 2016 in Civil Application No.4316 of 2014 and has further sought order for executing PAAA agreement with respondent No.9, receipt of transit rent etc.

12. I have heard learned counsel for all the parties.

13. The main dispute revolves around the premises which is in

possession of the appellant and which according to respondent No.1 , the appellant has purchased from one of the co-owners. Except, this unit all other units are vacated and possession is handed over to respondent No.9 for execution of redevelopment project.

14. In my view, just because of the litigation between the appellant and respondent No.1 with respect to one unit, the redevelopment project cannot be stalled. Therefore, keeping in mind the interest of all the parties, I propose to pass the following order:

- i. Appellant/Applicant to handover the possession of the suit premises to the Court Receiver and the Court Receiver simultaneously will handover possession to respondent No.9. Respondent No.9 to execute PAAA agreement with the Court Receiver;
- ii. Respondent No.9 to deposit transit rent of Rs.25,000/- per month in the Court and the appellant/applicant would be entitled to withdraw Rs.5,000/- per month with an undertaking that if, at the end of disposal of the appeal, he is called upon to refund the same then the same will be refunded as per the orders passed in the appeal. If respondent No.9 pays advance rent for "X" number of months, the appellant/applicant is entitled to Rs.5,000/- per month multiplied by "X" number of months;
- iii. The amount deposited by respondent no.9 as per

redevelopment agreement to be deposited in the Fixed deposit after paying Rs.5,000/- per month to the appellant;

iv. No third party rights will be created by any of the parties to the present appeal in respect of the suit premises;

v. Respondent No.9 to hand over possession of the premises, on its redevelopment, to the Court Receiver;

vi. All the above terms will be subject to the outcome of the first appeal. The exercise of handing over of the possession to respondent No.9 is to be completed within two weeks from today;

vii. The Corporation will not withhold any permission or approvals on the ground of the present appeal being pending before this Court.

15. Interim Application is disposed of in above terms.

[JITENDRA JAIN, J.]