

Amberkar

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

APPEAL FROM ORDER (ST) NO. 38632 OF 2025
WITH
INTERIM APPLICATION NO. 38321 OF 2025
WITH
INTERIM APPLICATION (ST) NO. 38635 OF 2025

Atul Manohar Kelkar

.. Appellant

Versus

Manohar Yeshwant Kelkar & Ors.

.. Respondents

.....

- Mr. Kishor Patil i/by Mr. Sachin D. Kadam, Advocates for Appellant
- Mr. Ajay Joshi, Advocate for Respondents

.....

CORAM : MILIND N. JADHAV, J.

DATE : DECEMBER 18, 2025

P. C.:

1. Heard Mr. Patil, learned Advocate for Appellant and Mr. Joshi, Advocate for Respondents.

2. Due to the joint request made by both the learned Advocates and the exigency expressed with the thought process that Appeal from Order can be disposed of, the matter is taken up out of turn at the time of mentioning in the morning session itself.

Interim Application No. 38321 of 2025:-

3. Perused the Application. For the reasons stated therein, Interim Application is allowed in terms of prayer clause (a). Delay of 158 days in filing the present Appeal from Order stands condoned.

3.1. Interim Application is allowed and disposed.

Appeal from Order (St) No. 38632 of 2025 a/w I.A. (St) 38635/2025:-

4. Present Appeal from Order assails the order passed below Exh. 5 which is in favour of Respondents. Mr. Joshi would submit that suit premises are 8 flats out of which four flats are in possession of Respondents which are the subject matter of the Suit. Out of four flats, three flats are given on leave and license and in the fourth flat, Respondents themselves are residing.

5. Mr. Patil in his usual fairness as always would make a suggestion that if a fair statement is made by Respondents not to deal with the subject flats any further, appropriate orders be passed to dispose of the Appeal from Order so that parties can prosecute their Suit before the Trial Court.

6. Mr. Joshi would submit that insofar as creating third party rights are concerned undoubtedly a statement can be recorded but in the event if the tenure of license in respect of three flats is required to be extended by further leave and license agreement(s) by Respondents and considering the fact that Exh. 5 Application has been rejected by the learned Trial Court, it would cause detriment to Respondents. In such a scenario, it is directed that it shall be open to the Appellant as well as Respondents to approach the Trial Court in the event if

Respondents desire to take any steps to deal with the subject flats and leave is also granted to the Appellant if the other side decides to take any steps to deal with the flats if it comes to the knowledge of the Appellants. Needless to state that this Court has not expressed its imprimatur or opinion on the substantive right of either the Appellant or Respondents in the suit flats and that shall be done only by the learned Trial Court as and when such Application is made before the Trial Court.

7. Keeping all contentions of the parties open, Appeal from Order as also Interim Application (St) No. 38635 of 2025 stand disposed.

Amberkar

[MILIND N. JADHAV, J.]

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