

HARSHADA H. SAWANT
(P.A.)

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION

INTERIM APPLICATION NO.668 OF 2025

IN

SUIT NO.13 OF 2025

Shri Hari Ashram

.. Applicant

IN THE MATTER BETWEEN:

Shri Hari Ashram

.. Plaintiff

Versus

Vijay Jayantilal Patel and Anr.

Respondents

.. (Or. Defendants)

.....

- Mr. Karl Tamboly a/w. Mr. Gaurav Srivastav, Mr. Hitanshu Jain, Ms. Manorama Mohanty and Mr. Adil Parsurampur, Advocates i/by S. K. Srivastav & Co. for Applicant / Plaintiff.
- Mr. Rohan Cama a/w. Mr. Yash Oza, Advocates i/by Lei Conveniens for Defendant No.1.

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CORAM : MILIND N. JADHAV, J.

DATE : NOVEMBER 26, 2025

P.C.:

1. Heard Mr. Tamboly, learned Advocate for Applicant / Plaintiff and Mr. Cama, learned Advocate for Defendant No.1.

2. By consent of both the parties, matter is taken up for hearing for ad-interim relief today.

3. Mr. Tamboly at the outset states that in view of the facts and circumstance of the present case, Plaintiff seeks appointment of Receiver in respect of suit property. Suit property in the present case happens to be the second and third floor of a building alongwith fifty percent ownership in the land on which the said building is situated.

Plaintiff before me is the Trust which claims right, title and entitlement in the said suit property on the basis of a registered Deed of Assignment appended at page No.38 of the Suit plaint.

4. Mr. Tamboly invites my attention to the fact that the Deed of Assignment has been witnessed by son of Defendant No.1 and said Defendant No.1 is the confirming party to the said Deed. Date of this Deed of Assignment happens is 30.07.2012. He would submit that by virtue of this instrument, Plaintiff was put in possession of the suit property as can be seen from the covenant at page No.45. He would submit that religious head of Plaintiff's Trust continued occupying the property but during the COVID- 19 Pandemic period, the suit property was kept in a locked condition.

5. He also fairly informs the Court that Defendant No.1 is fifty percent owner of the other portion of suit property and the ownership is joint in nature. He would submit that Defendant No.1 is entitled to ownership in fifty percent of the land and he alongwith his family is / was occupying the ground and the first floor of the building.

6. He would submit that taking advantage of the locked condition of the suit property during the COVID-19 Pandemic period, without knowledge of the Plaintiff – Trust Defendant Nos.1 and 2 who are brothers entered into the property on the second and third floors and took physical possession thereof.

7. He would submit that this came to the knowledge of the Plaintiff only on 21.04.2022 whereupon Plaintiff orally requested Defendant No.1 to return back the suit premises. He would submit that response was in the negative. He would submit that Plaintiff filed a police complaint dated 19.06.2023 for loss of share certificate which is appended at page No.87.

8. Suit is filed on 16.03.2024 though registered in the year 2025. Mr. Tamboly has drawn my attention to the Affidavit-in-Reply dated 08.10.2024 filed by Defendant No.1 on behalf of both Defendants wherein it is stated that one of the reason for them for not returning the property is on account of they having paid a huge amount to the Plaintiff – Trust for having repurchased the said Suit property from Plaintiff which entitled them to take possession of the Suit property. He would submit that there is no registered document of transferring title to Defendants pursuant to the registered Deed of Assignment appended at page No.38 whereby the title could have been transferred to the Defendants.

9. He has drawn my attention to the alleged payments made by Defendants to the Plaintiff – Trust details of which are appended at page No.58 of the Affidavit-in-Reply. I have perused the same. *Prima facie*, it is seen that these payments which are sought to be relied upon by Defendants are made between 12.08.2012 and 03.03.2017.

According to Plaintiff – Trust, these payments were indeed received by the Trust but they were received as donations from Defendants to the Plaintiff – Trust. He would also immediately draw my attention to the letters regarding payments made which are appended from page Nos.537 to 542 of the Plaintiff's Affidavit-in-Rejoinder. These letters *prima facie* show the intent of the father of Defendant No.1 having made these payments to the Plaintiff Trust as corpus donations and state also how the same are to be utilized.

10. It is seen that from the year 2017 Defendants had not taken any steps. They will have to answer the letters which are appended at page Nos.537 to 542. There is no document of repurchase. Immovable property cannot be repurchased based on above facts and record is to the contrary.

11. Mr. Cama, learned Advocate for Defendants seeks time to take instructions and accordingly argue his case.

12. I have not heard Mr. Cama today. He shall answer the above questions on the next date.

13. List the matter on **10th December, 2025**. To be treated as 'Part-Heard' and to be placed under the caption 'First on Board'.