

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
INTERIM APPLICATION NO. 4855 OF 2025
IN
SUIT NO. 101 OF 2025

Nandita Ashok Rajani nee

Nandita Prataprao Chowgule *...Applicant*

In the matter between :

Nandita Ashok Rajani nee

Nandita Prataprao Chowgule *...Plaintiff*

: Versus :

Priyadarshini Sanjay Chowgule

and Ors. *....Respondents*

Mr. Ranjit Agashe with Mr. Rajendra Jain, Ms. Vinsha Acharya, Mr. Pranil Lahigade, Mr. Aniket Pardeshi i/b. Ms. Namrata Agashe, for the Plaintiff-Applicant.

Mr. Kunal Mehta (through Video Conference) with Mr. Abhay Jadeja, Mr. Arun Unnikrishnan and Ms. Urvi Gulechha i/b. Jadeja Satiya, for Defendant Nos.1 to 3.

CORAM : SANDEEP V. MARNE, J.

DATED : 8 SEPTEMBER 2025

P.C :

1) Mr. Agashe, the learned counsel appearing for the Plaintiff, at the outset submits that the Plaintiff is not pressing prayer clause (b) of the Interim Application.

2) So far as prayer clause-(a) is concerned, this Court has already passed order dated 8 May 2025 permitting structural works/maintenance works by appointing M/s. Shetgiri & Associates as an Architect to survey fifth floor of the building. Order dated 8 May 2025 reads thus :

1. The immediate concern of the Plaintiff is qua the entire fifth floor of the building known as Datta Prasad Building.

2. The contention of Learned Senior Counsel appearing on behalf of the Plaintiff is that there is certain seepage, which is coming from the fifth floor and as also terrace to the fourth floor which is in use, occupation and possession of the Plaintiff. It is to address this issue that the present Interim Application has been taken out and the following reliefs are sought for:

a) This Hon'ble Court may be pleased to direct Defendant Nos.1 to 3 thereby allowing the Applicant/Plaintiff and/or her agents/contractors, engineers, etc. to enter into the Suit Property to carry out/conduct the repair/maintenance works wherever necessary;

b) That pending the hearing and final disposal of the present Suit, this Hon'ble Court may be pleased to appoint Court Receiver, High Court, Bombay or any other fit and proper person to act as Receiver to take charge, control and possession of the Suit Property as mentioned below Exhibit H annexed to the Plaint, with all powers and authorities vested unto him under the provisions of Order XL Rule 1 and 2 of the Code of Civil Procedure, 1908, including the power to take possession of the Suit Property for the purpose of inspecting, repairing, maintaining and up-keeping the Suit Property, in accordance with law, especially the municipal laws;

c) That pending the hearing and final disposal of the present Suit, this Hon'ble Court may be pleased to pass an order of temporary injunction preventing the Defendants from alienating and/or disposing-off and/or encumbering and/or creating third-party rights of whatsoever nature in

respect of and in relation to the Suit Property as mentioned below Exhibit H annexed to the Plaint;

d) That pending the hearing and final disposal of the present Interim Application, this Hon'ble Court may be pleased to pass an order of injunction preventing the Defendants from alienating and/or disposing-off and/or encumbering and/or creating third-party rights of whatsoever nature in respect of and in relation to the Suit Property as mentioned below Exhibit H annexed to the Plaint;

e) For Interim and/or ad-interim reliefs in terms of prayer clause (a) to (d) above be granted;

f) Any other and further reliefs as this Hon'ble Court may deem fit and proper be granted;

3. Learned Senior Counsel appearing on behalf of the Plaintiff submits that no reliefs have been sought for against Defendant Nos.4 and 5. Insofar as Defendant Nos.1 to 3, who are residing on the fifth floor flat, Learned Counsel appearing on behalf of Defendant Nos.1 to 3 submits that he has instructions from Defendant Nos.1 and 2 to submit an order of this Court by which the necessary repair, maintenance work in respect of the said flat and building can be carried out, however the same should not be used as a ground to disturb the use, occupation and possession of Defendant Nos.1 and 2 of the fifth floor flat. Insofar as Defendant No.3 is concerned, Learned Counsel submits that he has not received any specific instructions from Defendant No.3.

4. Having due regard to the fact that today it is not in dispute before me that there is a building in question which requires structural maintenance work as also there is a seepage which is flowing to the fourth floor from the fifth floor flat and the fact that the monsoon season is around the corner, urgent orders would require to be passed for the welfare of the occupants of the building.

5. Learned Counsel are agreeable that the present Interim Application can be disposed of in terms of prayer clause (a) in the following manner :

i. Parties have jointly agreed to appoint M/s. Shetgiri & Associates as an Architect to survey the building.

ii. The Architect shall undertake the survey and submit its report as to what structure and other works would be required to be carried out in respect of the suit property including balcony and terrace.

ii. Learned Senior Counsel for the Plaintiff very fairly submits that on submission of report, the structural work/maintenance work will be carried out by the Plaintiff and the costs of the same shall be borne by the Plaintiff. Statement is accepted.

iv. It is made clear that this work shall be done subject to certificate of satisfaction by the Architect.

v. It is made clear that Defendant No.3 shall not in any manner obstruct this order from putting it into the effect. If such obstruction is caused by Defendant No.3, the same will be considered as contempt of this order.

6. It is stated that all the parties are today agreeable to make an attempt for mediation to amicably resolve their disputes and differences, save and except Defendant No.3. Hence, on the next date, Defendant No.3 shall also given instructions in respect of the mediation.

7. Stand over to 4th July 2025.

3) In pursuance of order dated 8 May 2025, Architect M/s. Shetgiri & Associates have carried out the survey and have submitted Report dated 3 July 2025, copy whereof is placed on record. The learned counsel appearing for the parties agree that the repair works as suggested in the report of the Architect can be carried out by the Plaintiff in pursuance of order dated 8 May 2025. Mr. Mehta would fairly submit that as directed by this Court on 8 May 2025, the Defendants shall not cause any obstruction to the repair work being conducted at the suit premises. The Plaintiff shall accordingly carry out the repair works as clarified by the Architect at its own cost as certified by the Architect in the Report dated 3 July 2025. The

Architect-M/s. Shetgiri & Associates shall supervise the work carried out by the Plaintiff. The Plaintiff shall bear the fees of the Architect. After the work is completed, the Architect shall certify whether the work has been carried out in accordance with the Report dated 3 July 2025 or not. Copy of the Report of the Architect shall be made available to the Defendants. In the event it is found that any repair work carried out by the Plaintiff is not in accordance with the Report dated 25 July 2025, the Defendants shall be at liberty to apply to this Court for appropriate orders. This would take care of prayer clause (a) of the Interim Application.

4) So far as prayer clauses (c) and (d) are concerned, Mr. Mehta learned counsel appearing for Defendant Nos.1 to 3, after taking instructions from his clients and on without prejudice basis, makes a statement that Defendant Nos.1 to 3 shall not alienate and/or dispose off and/or encumber or create any third party rights in respect of the suit property during pendency of the suit statement is accepted and taken on record.

5) With the above arrangement, nothing remains to be adjudicated in the Interim Application. The same is accordingly disposed of.

6) At this stage, Mr. Agashe would submit that there is a possibility of amicable resolution of the disputes involved in the suit. He would pray for reference of the disputes for mediation. Accordingly, Mr. Vishal Kanade, Advocate practising in this Court is appointed as a Mediator to mediate the disputes between the parties.

7) Parties would be at liberty to move the Court upon conclusion of the mediation proceedings.

[SANDEEP V. MARNE, J.]

NEETA
SHAILESH
SAWANT

Digitally signed by
NEETA SHAILESH
SAWANT
Date: 2025.09.08
20:31:50 +0530