

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

COMMERCIAL SUIT NO.227 OF 2017

Nirupama Yogesh Kanani and Anr)...Plaintiffs
V/s.
Deven Yogesh Kanani and Anr)...Defendants

WITH
COUNTER CLAIM NO.28 OF 2017
WITH
COURT RECEIVER'S REPORT NO.350 OF 2022
WITH
INTERIM APPLICATION (L) NO.6604 OF 2025
WITH
INTERIM APPLICATION (L) NO.30589 OF 2024
WITH
INTERIM APPLICATION (L) NO.11847 OF 2022

Mr. Aditya Udeshi with Mr. Netaji Gawade i/b Sanjay Udeshi & Co.
Advocate for the Plaintiffs and for Applicant in IAL 30589/24
Mr. Panicker for the Defendant No.1 in Suit, for Applicant in IAL
11847/22 and IAL 6604/25.
Mr. N. C. Pawar, OSD to the Court Receiver present.

CORAM : ABHAY AHUJA, J.
DATE : 13th MARCH 2025

PC. :

Interim Application (L) No.11847 of 2022

1. Mr. Panicker, learned Counsel appears for the Defendant No.1 and seeks to withdraw the Interim Application (L) No. 11847 of 2022 to file an appropriate Petition.
2. Interim Application (L) No. 11847 of 2022 is accordingly allowed to be withdrawn and disposed as such.

Interim Application (L) No. 30589 of 2024

3. At the outset, Mr. Udeshi, learned Counsel appearing for the Interim Applicant apologises to this Court submitting that although objections have been more or less removed, however, some objections have remained to be removed. Mr. Udeshi, however, submits that this Interim Application be allowed to be withdrawn in order to consider filing of an appropriate Application for decree on admission under Order XII Rule 6 of the Code of Civil Procedure, 1908.

4. Accordingly, the Interim Application is allowed to be withdrawn and disposed as such.

Interim Application (L) No. 6604 of 2025

5. Mr. Panicker, learned Counsel appears for the Defendant No. 1-Applicant and submits that although he was appearing earlier, in between he was not appearing and now again he is appearing and therefore, this Court may permit withdrawal of this Interim Application with liberty to take out appropriate proceedings.

6. It is observed that earlier also on 27th February, 2025, the Interim Application (L) No. 5690 of 2025 was withdrawn with liberty to take

out appropriate proceedings, pursuant to which it appears that the Interim Application (L) No. 6604 of 2025 has been taken out seeking a review of the order dated 27th February, 2025. Again today this Interim Application is requested to be withdrawn with liberty to take out an appropriate proceedings.

7. This kind of conduct does not augur well for the litigants and for the legal system and the concerned Advocate is well advised to consider filing appropriate proceeding instead of repeatedly filing Applications and withdrawing them. This much for now.

8. The Interim Application is allowed to be withdrawn and disposed as such.

Court Receiver's Report No. 350 of 2022

9. Mr. Pawar, learned OSD to the Court Receiver's office is present and submits that this Court may consider the other directions sought in the report and in particular directions (a) and (b).

10. Mr. Pawar submits that the other directions in this report be also considered by the Court.

11. Mr. Pawar, however, submits that since the monies lying to the credit of the suit account is approximately Rs. 2 lacs, until and unless either the parties are directed to bear the cost of the repair to the compound wall or the monies lying in the bank accounts as per prayer Clause (e) are directed to be deposited with the office of the Court Receiver, there would be some difficulty faced in taking physical possession of the suit property.

12. Mr. Udeshi, learned Counsel for the Plaintiffs submits that in addition to the above, the parties also be directed to pay arrears of the maintenance of the society of Rs. 4,50,570/- as due on 31st March, 2021 and also the arrears till date.

13. As noted above, Mr. Panicker, learned Counsel for the Defendant No.1 has submitted that he needs time to take instructions in the matter. Let appropriate instructions be taken by the next date.

14. At his request, list on **17th April, 2025**, when this Court will consider the prayers in the Court Receiver's Report.

(ABHAY AHUJA, J.)