

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

**INTERIM APPLICATION NO. 2678 OF 2025
IN
SUIT NO. 684 OF 2013**

Deepak Namchand Shah ...Applicant/Plaintiff
V/s.
Marvelous Builders Pvt. Ltd. & Ors. ...Respondents/Defendants

**WITH
APPEAL (L) NO. 43017 OF 2025
IN
INTERIM APPLICATION NO.2678 OF 2025**

Ms. Ishani Khanvilkar with Ms. E. A. Sasi with Ms. Bhagyashri Mangale for the Plaintiff.

Mr. Rohaan Cama with Mr. Aseem Naphade, Mr. Chirag Saraogi and Mr. Shubham Shah i/b Mr. Tushar Goradia for the Defendants No.1, 8 and 9A.

Mr. Vishwanath Patil with Mr. Anukul Seth for the Defendants No. 5-7.

Mr. Prathamesh Kamat with Mr. Yash Sinha i/b Ms. Neuty Thakkar for the Respondent No. 10.

CORAM : ABHAY AHUJA, J.
DATE : 20th JANUARY, 2026

P.C. :

1. This matter has been heard at length, after it has been submitted that by order dated 14th January, 2026, the Appeal Court has recorded in paragraph 5 that it shall be open to the appellant-builder to make the arguments before the learned Single Judge for not continuing the order dated 22nd December, 2025 any further.

2. Mr. Kamat, learned Counsel has appeared for the newly added Defendant No. 10 viz. M/s Armstrong Buildtech Pvt. Ltd. and submits that although he has been described as development manager of the Marval Pride Project, his client is in fact a mortgagee having interest in the project of the Defendant No. 1.

3. Mr. Kamat has also pointed out that the amended Complaint and the Interim Application have been served only on 17th January, 2026 and no reply has been filed, however, submitting that the injunction granted with respect to creation of third party right, title or interest with respect to the suit property and construction thereof be vacated, as even till the year 2023, the Plaintiff/Applicant had not been granted any ad-interim reliefs and in fact the Notice of Motion seeking reliefs as in the Interim Application had been disposed of as not pressed.

4. Mr. Kamat submits that some time be granted to file reply, so that all the correct facts can be placed on the record of this Court, in the matter.

5. Mr. Cama, learned Counsel appears for the Defendants No. 1, 8 and 9A and at the outset submits that although this Court had only directed that M/s Armstrong Buildtech Pvt. Ltd. be made a party to the Interim Application and the Complaint along with consequential

amendments, however, the amendments that have now been carried out to the Plaint and the Interim Application are such as to change the prayer in the Plaint and to add documents of the year 2009, which ought to have been sought by making an Application under Order VI Rule 17 of the Code of Civil Procedure, 1908 and not to pursuant to the order dated 22nd December, 2025. Mr. Cama submits the said amendments be deleted.

6. On the ad-interim relief granted against his clients, Mr. Cama submits that the same ought to be vacated forthwith, in view of the suppression before this Court as the 3rd party rights that have already been created in the year 2013 and in view of the progress of the construction and the progress of the matter where the Plaintiff's evidence is closed and that the Plaintiff had never moved for interim reliefs as has been recorded in the order dated 17th March, 2023 as well as in the order dated 22nd December, 2025.

7. Mr. Cama further submits that the purported MOU allegedly executed between the Plaintiff and the Defendant No.1 is neither stamped nor signed nor registered and that only a claim of Rs. 16,00,000/- is through banking channel whereas rest is stated by the Plaintiff to be in cash.

8. Mr. Cama submits that since the restraint granted vide order dated 22nd December, 2025 is coming in the way of the project, this Court may vacate the said restraint and proceed with the Suit, as the Defendants have already been directed to file their evidence and compilation of documents, which has not been filed as the Plaintiff and the proceedings have been amended in such a way that unless the amendments on merits are deleted, additional written statements would have to be filed and additional issues would have to be framed.

9. Mr. Patil, learned Counsel appears for the Defendants No. 5 and 7 and submits that the amended proceedings have been received only on 17th January, 2026 and that this Court may grant some time to file reply.

10. Ms. Khanvilkar, learned Counsel appears for the Plaintiff and submits that of the payments of Rs. 1.19 Crores, Rs. 16,00,000/- is made to the Defendant No. 1, by cheque and the balance by cash and that she has instructions to state that there are receipts from the Defendant No.1 with respect to the all the payments including the payments made in cash and that the said payments have been made with respect to the purchase of the suit plot /property, which is denied by Mr. Cama, learned Counsel appearing for the Defendants No. 1,8

and 9A.

11. This Court has considering the scope of the dispute also suggested to the learned Counsel appearing in the matter as to whether an amicable settlement is possible and the learned Counsel have sought some time to consider the same.

12. Be that as it may, let reply(ies) to the amended Interim Application be filed within a period of two weeks with copy to the other side. Rejoinder in two weeks thereafter with copy to the other side.

13. List on 17th February, 2026 on the supplementary board for hearing on whether the order dated 22nd December, 2025 is to be continued or not. Until then the restraint granted vide paragraph 5(iv) of the order dated 22nd December, 2025 to continue.

(ABHAY AHUJA, J.)

Digitally
signed by
NIKITA
YOGESH
GADGIL
Date:
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