

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY  
CIRCUIT BENCH AT KOLHAPUR  
CIVIL APPELLATE JURISDICTION**

**INTERIM APPLICATION NO. 8771 OF 2025  
(For vacating stay)  
IN  
WRIT PETITION NO. 4290 OF 2021**

Naresh Ramchandra Bagare  
& 11 Ors.

... Applicants

**In the matter between :**

Vaibhav Co-operative Housing Society  
through its Chairman  
Vs.

... Petitioner

The State of Maharashtra  
and 16 others

... Respondents

.....

Mr. S.S. Panchpor, Advocate (thr. V.C.), a/w Mr. Pradeep Salgar, a/w Ms. Vaishavi Shelar, Advocate for applicants in I.A. No.8771 of 2025  
Mr. Chetan G. Patil, a/w Mr. P.P. Magadum, Advocate for the Petitioner in WP No.4290 of 2021-Vaibhav Co-operative Housing Society.  
Ms T.J. Kapre, AGP for the respondent Nos. 1 to 4— State  
Mr. Abhijeet Adgule, Advocate for respondent No.5 - Kolhapur Municipal Corporation

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**CORAM : MADHAV J. JAMDAR &  
PRAVIN S. PATIL, JJ.**

**DATE : 06.05.2026.**

**P C. :**

- 1.** The interim application is filed by the original respondent Nos.6 to 17 seeking relief of vacating ad-interim order dated 17.01.2025 passed by this Court in Writ Petition No.4290 of 2021.
- 2.** A Co-ordinate Bench of this Court (Principal Bench) on 17.01.2025 passed the following order:

*“1) Mr. Panchpor waives notice on behalf of the Respondent Nos.6 to 17 and seeks time to file his Vakalatnama.*

*1.1) At his request, stand over to 7<sup>th</sup> February, 2025.*

*2) Till the returnable date, ad-interim relief in terms of prayer clause (c).”*

**3.** The said order has been challenged before the Hon’ble Supreme Court by filing S.L.P. No.9726 of 2025 and the Hon’ble Supreme Court, on 15<sup>th</sup> April, 2025 passed the following order:

*“1. The petitioner is aggrieved by the ad interim order dated 17.01.2025 passed by the High Court in Writ Petition No.4290 of 2021 "Vaibhav Co-operative Housing Society vs. The State of Maharashtra".*

*2. Apart from the submissions on merits, learned counsel for the petitioner submits that the petitioner was not heard when the impugned order was passed by the High Court. This apart, the lay out plan of the Society was approved by the Municipal Corporation on the application of the Administrator of the Society and therefore, the Society has no authority in law to object the said lay out plan.*

*3. In view of the above, we dispose of the Special Leave Petition with liberty to the petitioner to move to the High Court for the vacation of the interim order dated 17.01.2025.*

*4. We expect that the High Court will consider the same in accordance with law most expeditiously.*

*5. Pending application(s), if any, shall stand disposed of.”*

**4.** Thus, as the contention was raised on behalf of the applicants that applicants were not heard when the said order dated 17.01.2025 was passed and certain other contentions were raised before the Hon’ble Supreme Court *inter alia* to the effect that layout plan of the Society was

approved by the Municipal Corporation, liberty was granted to the present applicants of approaching the High Court seeking vacation of interim order dated 17.01.2025. Pursuant to the liberty granted by the Hon'ble Supreme Court, this Interim Application has been filed.

**5.** In the meanwhile, on the formation of Kolhapur Circuit Bench, the matter was transferred from Principal Bench to Circuit Bench Kolhapur.

**6.** We heard Mr. Panchpor, learned counsel appearing for the applicants (original respondent Nos.6 to 17), Mr. Chetan Patil, learned counsel appearing for the petitioner and Mr. Abhijeet Adgule, learned counsel appearing for respondent No.5- Kolhapur Municipal Corporation and Ms. T.J. Kapre, learned AGP for respondent Nos.1 to 4 - State.

**7.** Mr. Panchpor, learned counsel appearing for the applicants submitted that the revised layout, which has been stayed pursuant to the said order dated 17.01.2025, was sanctioned by Kolhapur Municipal Corporation on 28.04.2000. It is submitted that the bungalows have been constructed as per the said revised layout in or about the year 2000 and in effect, the sanctioned layout of the year 2000 has been stayed by ad-interim relief granted by this Court by order dated 17.01.2025 i.e. after a period of about 25 years. It is submitted that the petitioner Society is taking undue advantage of the stay granted by this Court. To support said submission our attention is invited to the contentions raised in paragraph No.7 (page 75) of reply filed to Exhibit 75 application filed in CCS

No.283 of 2017 pending before the Co-operative Court No.1, Kolhapur.

**8.** Mr. Panchpor, learned counsel also pointed out various factual aspects and submitted that in effect, passing of ad-interim order is in the nature of final order. In any case, it is submitted that the layout was sanctioned in the year 2000 and the same has been acted upon, bungalows have been constructed by the members of the Society and by the order passed by this Court, the same has been stayed after a period of 25 years. It is, therefore, submitted that ad-interim relief granted by this Court be vacated.

**9.** On the other hand, Mr. Chetan Patil, learned counsel appearing for petitioner in Writ Petition No.4290 of 2021 submitted that ad-interim relief is already granted by this Court. As per the settled legal position, ad-interim relief can be vacated only if the same has been obtained by misrepresentation or due to change in circumstances. He submitted that this is not case of misrepresentation or change in circumstances and, therefore, ad-interim order granted by this Court may be vacated.

**10.** Mr. Chetan Patil, learned counsel, further submitted that ad-interim order was granted by this Court on 17.01.2025 after hearing the applicants and in fact, when the matter was listed before this Court on 07.02.2025 and 10.02.2025, time was sought by the present applicants i.e. respondent Nos.6 to 17 and, therefore, ad-interim order be not vacated.

**11.** Mr. Chetan Patil, learned counsel submitted that in the year 1988, the then Managing Committee of the petitioner Society was superseded and one Mr. Ramchandra M. Kale was appointed as an Administrator to look after the affairs of the Society for a period from 01.05.1988 to 31.07.1989. Thereafter, a Board of Administrators was in charge of the affairs of petitioner-Society from 01.08.1988 to 26.01.1998. He brought to our attention the chart annexed to pages 15 to 17 of the additional compilation tendered on behalf of the Petitioner and submitted that all these new members were given membership of the Society during the period of 1991 to 1998 and all these members are close relatives or family friends of the members of the Administrative Committee. He, therefore, submitted that the application seeking vacation of interim relief be rejected.

**12.** Mr. Abhijeet Adgule, learned counsel appearing for respondent No.5- Kolhapur Municipal Corporation points out paragraph No.7 of the additional affidavit filed on behalf of respondent No.5 dated 17.09.2022 and submits that pursuant to the sanctioned layout dated 28.04.2000, possession of open space and roads has been given to the Municipal Corporation by execution of Kabjepatti dated 08.03.2000. Mr. Abhijeet Adgule, learned counsel, therefore supported the applicants and contended that ad-interim order be vacated.

**13.** Although, it is contended by Mr. Chetan Patil, learned counsel

appearing for petitioner that the learned counsel of respondent Nos.6 to 17 was heard when order dated 17.01.2025 was passed, perusal of the said order shows that Mr. Panchpor learned counsel appearing on behalf of respondent Nos.6 to 17 sought time to file his Vakalatnama and, therefore, at his request, adjournment was granted. The said order dated 17.01.2025 does not indicate that any submissions were made on behalf of the respondent Nos.6 to 17 and in fact, the same specifically records that time was sought by Mr. Panchpor, learned counsel and accordingly time was granted.

**14.** Mr. Panchpor, learned counsel appearing for respondent Nos.6 to 17 states that in fact, in Writ Petition No.4290 of 2021, respondent Nos.6 to 17 were not initially impleaded as parties, although, they are going to be affected by the order passed in the said writ petition and, therefore, Interim Application No.993 of 2022 has been filed seeking impleadment and the same has been allowed by order dated 28.09.2022. Pursuant to the said order, respondent Nos.6 to 17 have been impleaded as parties in Writ Petition No.4290 of 2021.

**15.** It is submitted by Mr. Panchpor, learned counsel appearing for respondent Nos.6 to 17 that Vakalatnama was filed in Interim Application No.993 of 2022 and, therefore, it is recorded in the order dated 17.01.2025 that Mr. Panchpor, waived notice on behalf of respondent Nos.6 to 17 and sought time to file Vakalatnama. Thus, there is substance

in the contention raised by Mr. Panchpor, learned counsel appearing for respondent Nos.6 to 17 that when the order dated 17.01.2025 has been passed, no submissions were advanced on behalf of the respondent Nos.6 to 17.

**16.** Before considering the contentions on merits, it is necessary to set out certain factual aspects:

(i) The petitioner Society was registered under the provisions of the Maharashtra Co-operative Societies Act, 1960 on 14.03.1964.

(ii) On 28.04.1966, the original layout has been sanctioned wherein a larger open space was shown. Thereafter, on 28.04.2000 revised layout was sanctioned in which the said open space has been reduced and bungalows were shown in the said open space.

(iii) It appears that in the year 1988, the then Managing Committee of the petitioner-Society was superseded and one Mr. Ramchandra M. Kale was appointed as Administrator to look after the affairs of the Society from 01.05.1988 to 31.07.1989. Thereafter, a Board of Administrators was in charge of the affairs of petitioner-Society from a period from 01.08.1989 to 26.01.1998.

(iv) During the said period, certain members were granted membership of the said Society, however, the said membership has been given by Resolutions of the years 1992, 1994, 1995, 1996 and two Resolutions are of the years 2010 and 2011 respectively. Thus,

the said members were granted membership about 30 to 35 years ago.

(v) As per the said revised sanctioned layout dated 28.4.2000, bungalows were constructed by some of the members.

(vi) In the Annual General Meeting dated 25.09.2016 of the petitioner-Society, the resolution has been passed for cancellation of the said revised layout dated 28.04.2020 and said resolution was challenged by respondent Nos.6 to 17 before the Kolhapur Co-operative Court by filing dispute bearing CCS No.282 of 2017.

(vii) An application has been filed by the applicants i.e. respondent nos. 6 to 17 to the Deputy Registrar for issuing direction to the Society that all the rights of the member be given to the said respondents and accordingly, the Deputy Registrar issued said direction on 03.08.2018 and the said order has been confirmed by the higher authorities.

(viii) Respondent Nos.6 to 17 also preferred application bearing Exhibit 15 before the Co-operative Court in said CCS No. 282 of 2017 and the said application was allowed by restraining the Society from obstructing the membership rights of the present applicants till the disposal of the revision pending before the minister and the said order is confirmed.

**17.** Although *prima facie* there is some substance in the contention

raised that the members whose names are reflected in chart (Page nos. 15 to 17 of additional compilation of the Petitioners) are the relatives of the then Administration Committee members of the said Society, however, the said persons are the members of the said Society for last about 30-35 years and therefore the said aspect is not very relevant for the purpose of granting ad-interim relief or for not vacating ad-interim relief.

**18.** In any case, it is admitted position that the said sanctioned layout, which has been stayed by this Court by ad-interim order dated 17.01.2025 has been sanctioned in the year 2000. The said layout has been acted upon and bungalows have been constructed in accordance with the same and possession has been given of the open space to respondent No.5-Kolhapur Municipal Corporation.

**19.** As per the said layout, the members of the said Society have constructed respective bungalows in or about the year 2000. In the Annual General Meeting dated 25.09.2016 of the petitioner-Society, the resolution has been passed for cancellation of the said revised layout dated 28.04.2020 and said resolution was challenged by respondent Nos.6 to 17 before the Kolhapur Co-operative Court by filing dispute bearing CCS No.282 of 2017.

**20.** Respondent Nos.6 to 17 preferred application bearing Exhibit 15 before the Co-operative Court in said CCS No. 282 of 2017 and the said application was allowed by restraining the Society from obstructing the

membership rights of the present applicants till the disposal of the revision pending before the minister and the said order is confirmed.

**21.** In the meanwhile, an application has been filed by the applicants i.e. respondent nos. 6 to 17 to the Deputy Registrar for issuing direction to the Society that all the rights of the member be given to the said respondents and accordingly, the Deputy Registrar issued said direction on 03.08.2018 and the said order has been confirmed by the higher authorities.

**22.** Thus, perusal of the record shows that the effect of ad-interim order is to stay the revised layout, which has been approved by the respondent No. 5-Kolhapur Municipal Corporation on 28.04.2000, which has been acted upon and same is in operation for last about 25 years.

**23.** There is substance in the contention raised by the applicants i.e. respondent nos. 6 to 17 that the Petitioner – Society is taking undue advantage of the stay granted by this Court. The same is very clear from the following contention raised in paragraph no. 7 (page 75) in reply to injunction application filed in C.C.S. No. 283 of 2017, which reads as under :-

“७) तसेच प्रतिवादी संस्थेने ना. मुंबई उच्च न्यायालयामध्ये सिव्हील रिट पिटिशन नं. ४२९०/२०२१ चा दाखल करून संस्थेचे मिळकती वरील दि. २८/०४/२००० चे सुधारित रेखांकन मंजुरी विरुद्ध दाखल केला आहे. सदर सुधारित रेखांकन मध्ये प्रस्तूत वादींचे तथाकथित भूखंडाचा समावेश होतो. सदर रिट अर्जाचे कामी दि. १७/०१/२०२५ रोजी ना. मुंबई उच्च न्यायालयाने अंतरिम आदेश करून दि. २८/०४/२००० चे सुधारीत

रेखाकंनास स्थगिती दिलेली आहे. सदर आदेश कामी हजर केलेला आहे. सदर आदेशाप्रमाणे वादी म्हणतात ते भुखंड सध्या आस्तित्वात राहत नसल्याने त्या प्लॉटच्या अनुषंगाने वादीना में. मजकुरी कोणतीही दाद कायद्यान्वये मागता येणार नाही व ती देता सुद्धा येणार नाही. वादी मागतात त्याप्रमाणे दाद दिलेस ना. मुंबई उच्च न्यायालयाचे आदेशाचे रुपभेदन होणार आहे. सबब, वादी हे में. मजकुरी कोणतीही दाद मागणेस पात्र नाहीत.”

(Emphasis added)

Thus, the contention raised on the basis of ad-interim order granted by this Court is to the effect that the land and bungalows of these respondents are not in existence, as the layout sanctioned on 28.4.2000 is stayed, when actually the bungalows are in existence for last about 25 years.

**24.** In any case, as noted hereinabove, the effect of the ad-interim order is disturbing the position which was in operation for last about 25 years. Thus, the relief sought in the interim application is required to be granted in the interest of justice.

**25.** Accordingly, the case is made out for granting relief in the interim application. The interim application is allowed in terms of prayer Clause-(B). Resultantly, ad-interim relief granted in terms of prayer Clause-(B) by order dated 17.01.2025 stands vacated.

**26.** However, it is clarified that actions taken pursuant to said revised layout dated 28.04.2000 shall be subject to the result of this petition.

**27.** It is clarified that the observations made in this order are made

only for the purpose of considering the relief sought in the interim application and writ petition will be decided on its own merits, in accordance with law.

**28.** The Interim Application is disposed of in the aforesaid terms.

**29.** Writ Petition be listed for admission on 12.06.2026.

**30.** At this stage, request is made for stay of this order for a period of four weeks.

**31.** However, as the effect of ad-interim order passed by this Court is disturbing the position which is in operation since the year 2000 and there is material on record to show that petitioner-Society is taking undue advantage of the ad-interim order by denying even the rights of the membership of respondent Nos.6 to 17 and even user of their bungalows, the said request is rejected.

**[PRAVIN S. PATIL, J. ]**

**[MADHAV J. JAMDAR, J.]**