

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 15433 OF 2025

Nelu Estate And Movers Private Limited

...Petitioner

Versus

District Deputy Registrar Cooperative
Societies and Ors

...Respondents

Mr. Karl Tamboly, a/w Mr. Bhavin Shah, Nirav Shah and
Niharika Singh, i/b Little and Co, for the Petitioner.

Mr. Nishant Chotani, a/w Arun Panickar, for Respondent No.2.

Mr. A. C. Bhadang, AGP for the State.

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CORAM: N. J. JAMADAR, J.

DATED: 23rd MARCH, 2026

PC:-

1. Heard the learned Counsel for the parties.
2. Mr. Tamboly, the learned Counsel for the petitioner, on instructions, seeks leave to withdraw the petition with liberty to institute a suit based on title before the competent Civil Court. Mr. Tamboly further submits that since the ad-interim relief is in operation, the same may be continued for a reasonable period to facilitate the petitioner to approach the competent Civil Court and work out the remedies.
3. In view of the decision of the Supreme Court in the case of *Arunkumar H. Shah HUF vs Avon Arcade Premises Co-operative*

*Society Limited and ors.*¹ which emphasises the well settled position in law that a party, who is aggrieved by an order passed by the Competent Authority under Section 11 of the Maharashtra Ownership of Flats Act, 1963, (“MOFA”) is not precluded from instituting a suit based on title, the prayer of the petitioner to withdraw the petition with liberty to institute a suit on title appears justifiable.

4. The learned Counsel for the respondent – Society vehemently opposed the prayer to continue the ad-interim relief. It was submitted that as the redevelopment of the society is stalled on account of the ad-interim order passed by this Court, the same may not be continued any further.

5. The ad-interim order passed by this Court is in operation since 17th November, 2025. Thus, in the totality of the circumstances, this Court considers it appropriate to continue the said ad-interim relief for the period of two weeks to facilitate the petitioner to work out its remedies before the competent Civil Court.

6. The petition, thus, stands dismissed as withdrawn with liberty to institute a suit based on title.

1 2025 SCC online SC 828.

7. The ad-interim relief granted by this Court on 17th November, 2025 shall continue to operate for the period of two weeks from today.

8. It is hereby made clear that, in absence of any order passed by the Competent Civil Court, the said ad-interim relief shall stand vacated after the expiry of the said period of two weeks and no prayer for extension of the said ad-interim relief shall be entertained by this Court on any count whatsoever.

[N. J. JAMADAR, J.]