

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

WRIT PETITION NO.15076 OF 2025

	Bhushan Madan Jalgaonkar	Petitioner
	V/S	
1	Shalini Laxman Nalavade	
2	Sunil Laxman Nalavade &	
3	Rakesh Laxman Nalavade	Respondents

**WITH
WRIT PETITION NO.15919 OF 2025**

1	Anil Babulal Jain &	
2	Kavita Anil Jain	Petitioners
	V/S	
1	Shalini Laxman Nalavade	
2	Bhushan Madan Jalgaonkar	
3	Sunil Laxman Nalavade &	
4	Rakesh Laxman Nalavade	Respondents

Mr. Amrut Joshi i/b Mr. Sanket Mungale *for the Petitioner in WP 15076 of 2025.*

Mr. Karl Tamboly with Mr. Vikram Garewal i/b Kartik Vig *for Petitioners in WP 15919 of 2025.*

Mr. Prasad K. Dhakephalkar, Senior Advocate (through video conferencing) i/b Mr. Jaydeep Do *for Respondents in both Writ Petitions.*

**CORAM : SANDEEP V. MARNE, J.
DATE : 17 MARCH 2026.**

JUDGMENT :-

1. These two Petitions are filed challenging the judgment and order dated 1 November 2025 passed by Appellate Bench of Small Causes

Court dismissing Miscellaneous Appeal No.107 of 2025 and confirming the Trial Court's order dated 30 September 2025 passed on Application at Exhibit-10 taken out by the Plaintiff under Order XXXIX, Rules 1 and 2 of the Code of Civil Procedure, 1908 (**the Code**). By its order dated 30 September 2025, the Trial Court has granted mandatory interim injunction for removal of lock from the premises and for restoration of possession thereof to the Plaintiff. The Trial Court has further enjoined Defendant No.1 from creating any third-party rights or inducting any person in the suit premises during pendency of the Suit. The Appellate Court has confirmed the Order of the Trial Court.

2. Briefly stated, facts of the case are that Room Nos.3 and 4 situated at first floor of the Building named 'Patel Mansion' situated at C.S. No.3884, Bhuleshwar Division, Sandhurst Road (East), Sardar Vallabhbhai Patel Road, Near Gol Deool, Kumbharwada, Girgaon, Mumbai – 400 004 are the '**suit premises**'. Smt. Shalini Laxman Nalavade (Plaintiff) is a tenant in respect of the suit premises alongwith her sons Sunil Laxman Nalavade and Rakesh Laxman Nalavade (Defendant Nos.2 and 3). Plaintiff claims joint tenancy in respect of Room No.3 with Defendant Nos.2 and 3 and joint tenancy in respect of Room No.4 with Defendant No.3. The building in which suit premises are located was originally owned by Haji Ismail Ali Patel vide Deed of Assignment dated 30 May 1979. According to the Plaintiff, she and Defendant Nos.2 and 3 were permitted to let out the suit premises to Satara Sahakari Bank Limited upto 31 August 2010 by the erstwhile landlord. In the year 2013 the landlords had instituted R.A.E. Suit No.108/175 of 2013 for eviction of

Plaintiff and Defendant Nos.2 and 3 from the suit premises. The Suit was dismissed for want of prosecution on 9 March 2015. Plaintiff claims that due to her advanced age, she had entrusted the suit premises to Defendant Nos.2 and 3 for managing the same.

3. By Deed of Assignment dated 31 March 2021 entered into with the legal heirs of the landlords, the building came to be assigned to Shri Bhushan Madan Jalgaonkar (Defendant No.1). This is how Defendant No.1 claims ownership in respect of the building including the suit premises. Plaintiff relies on letter of attornment issued by the heirs of the erstwhile landlords regarding assignment of the suit building in favour of Defendant No.1. Plaintiff alleges that she received information on 10/11 December 2021 about Defendant No.1 illegally and forcibly removing Plaintiff's lock on the suit premises and forcibly taking over possession thereof by putting his own lock.

4. In the above background, Plaintiff has filed R.A.D. Suit No.779 of 2022 in the Court of Small Causes at Mumbai seeking a declaration that she is the joint tenant of Room Nos.3 and 4 and seeking direction for removal of lock of Defendant No.1 from the suit premises. In her suit, Plaintiff filed Application at Exhibit-9 seeking mandatory temporary injunction for removal of locks of Defendant No.1 from the suit premises and for restoration thereof to the Plaintiff. Plaintiff also sought injunction against Defendant No.1 from inducting any person into the suit premises and/or creating any third-party rights. Plaintiff also sought compensation/damages of Rs.70,789/- per month in respect of the suit premises from Defendant No.1.

5. Defendant No.1 appeared in the suit and filed his Written Statement on or about 15 February 2023. Defendant No.1 also filed a separate Reply to the Injunction Application as well as an Additional Reply dated 6 November 2023. In the Additional Reply, Defendant No.1 disclosed for the first time that Shri Anil Babulal Jain was inducted as a tenant in respect of Room No.3 and Ms. Kavita Anil Jain was inducted as tenant in respect of Room No.4 in the year 2021 before filing of the Suit.

6. By order dated 30 September 2025, the Trial Court proceeded to allow the Application at Exhibit-10 filed by the Plaintiff under Order XXXIX, Rules 1 and 2 of the Code and has granted interim mandatory injunction in favour of the Plaintiff directing Defendant No.1 to restore the possession of the suit premises in favour of the Plaintiff and by restraining Defendant No.1 from inducting any person in the suit premises or creating any third party right therein. Aggrieved by the order of the Trial Court dated 30 September 2025, Defendant No.1 filed Miscellaneous Appeal No.107 of 2025 before Appellate Bench of Small Causes Court, which has been dismissed vide judgment and order dated 1 November 2025. Defendant No.1 has filed Writ Petition No.15076 of 2025 challenging the orders passed by the Trial Court on 30 September 2025 and by the Appellate Court on 1 November 2025.

7. Shri Anil Babulal Jain and Ms. Kavita Anil Jain, claiming to be inducted tenants in respect of suit premises, who did not challenge the order of the Trial Court by filing Appeal before the Appellate Bench, have directly filed Writ Petition No.15919 of 2025 challenging the judgment and order of the Appellate Court dated 1 November 2025.

8. Mr. Amrut Joshi, the learned counsel appearing for the Petitioner in Writ Petition No.15076 of 2025 (Defendant No.1) submits that the Trial and the Appellate Courts have grossly erred in passing an order of interim mandatory injunction in favour of the Plaintiff. That no case was made out for grant of interim temporary injunction, which cannot be granted as a matter of course. Mr. Joshi invites my attention to the averments in the plaint wherein Plaintiff has herself admitted that she had kept the suit premises locked and was not occupying the same due to her old age and deteriorated health condition. That since the case involves admitted non-use of the suit premises by the Plaintiff, the Courts have erroneously erred in directing restoration of possession of the suit premises in favour of the Plaintiff. That newly inducted tenants have been occupying the suit premises before filing of the Suit and that therefore the case does not involve rarest of rare case for reinduction of the Plaintiff into the suit premises. He invites my attention to the Deed of Assignment by which Defendant No.1 has purchased the suit premises in support of his contention that there is express entry of '*the room has been closed for last 25 years*' against the name of the Plaintiff. He therefore submits that restoration of possession in favour of the Plaintiff only for the purpose of keeping the premises locked was clearly unwarranted. That if the Plaintiff succeeds in the Suit, final decree can put her in possession however, before deciding Plaintiff's entitlement to claim tenancy rights, the Trial Court has proceeded on assumption as if Plaintiff's tenancy is an admitted position. Mr. Joshi would therefore pray for setting aside the impugned orders.

9. Mr. Tamboly, the learned counsel appearing for Petitioners in Writ Petition No.15919 of 2025 (newly inducted tenants) submits that the impugned orders are passed despite noticing the fact that his clients possess the suit premises and without impleading them. That the Plaintiff has secured an order of interim mandatory injunction behind the back of his clients. That the impugned orders are passed without grant of an opportunity of hearing to the Petitioners. That Petitioners have taken possession of the suit premises in the November 2021. He relies on rent receipts in respect of Room Nos.3 and 4 issued by Defendant No.1. He also relies on several documents to prove occupation of the suit premises by the Petitioners. He therefore submits that Plaintiff's application for temporary injunction be remanded for fresh decision by grant of opportunity of hearing to the Petitioners in Writ Petition No.15919 of 2025.

10. Mr. Tamboly submits that interim temporary injunction ordinarily cannot be granted by the Court as a matter of course and the Plaintiff has to make out much higher degree of prima facie case by demonstrating that he/she is likely to succeed in the suit and the loss/injury suffered is of a higher degree than the one demonstrable for usual prohibitory injunctions. In support, he relies on judgments of the Apex Court in *Samir Narain Bhojwani vs. Aurora Properties and Investments and Anr.*¹, *Hammad Ahmed vs. Abdul Majeed and Ors.*² and *Dorab Cawasji Warden vs. Coomi Sorab Warden & Ors.*³.

1 (2018) 17 SCC 203

2 (2019) 14 SCC 1

3 (1990) 2 SCC 117

11. Mr. Tamboly further submits that building has gone for redevelopment and development rights have been granted to Priani Realty LLP for redevelopment of the suit property. That Petitioners have given their irrevocable consent to the MHADA for redevelopment of the property on 12 June 2024 and that the Developer has executed Memorandum of Understanding dated 8 June 2024 with the Petitioners. That the suit has been instituted and mandatory interim injunction is applied for by the Plaintiff only for claiming share in the redevelopment process when Plaintiff had absolutely no interest left in the suit premises and had abandoned her tenancy rights almost a quarter century ago. Mr. Tamboly further submits that the building is otherwise slated for demolition in couple of months and that therefore instead of restoring the possession of the suit premises to the Plaintiff, arrangement be directed for deposit of the transit rent in the Small Causes Court and the entitlement of Plaintiff or of two inducted tenants in respect thereof can be determined at the final hearing of the Suit.

12. Mr. Dhakephalkar, the learned Senior Advocate appearing for Plaintiff opposes both the Petitions submitting that the Petitioners have taken law in their hand and have forcibly dispossessed the Plaintiff from the suit premises. That two inductees Shri Anil Babulal Jain and Ms. Kavita Anil Jain are shown to have been the tenants of the suit premises vide document dated 3 November 2023 with the intention of frustrating the suit of the Plaintiff. That in the Written Statement, the factum of alleged induction of Shri Anil Jain and Ms. Kavita Jain in the suit premises was not disclosed by Defendant No.1. He submits that Shri Anil

Jain and Ms. Kavita Jain are related to Defendant No.1 and are deliberately shown as tenants with a view to deny the tenancy rights of the Plaintiff. He submits that the Developer-Priani Realty LLP is incorporated on 28 September 2022 with partners Shri Ashwin Umesh Jalgaonkar and Ms. Punam Jitendra Jain. That Shri Ashwin Umesh Jalgaonkar and Shri Jitendra Babulal Jain are also Directors in another Company named Equo Realty Private Limited. That Shri Jitendra Babulal Jain and Shri Anil Babulal Jain are real brothers and Ms. Kavita Jain is sister-in-law of Shri Jitendra Jain. That wife of Shri Jitendra Babulal Jain viz Ms. Poonam Jain is partner in Priani Realty LLP. He submits that the landlord Shri Bhushan Mandar Jalgaonkar is related to Shri Ashwin Umesh Jalgaonkar who is another partner in Priani Realty LLP. That thus the entire transaction of induction of Shri Anil Jain and Ms. Kavita Jain is sham and bogus and is created only for frustrating the Suit of the Plaintiff.

13. Mr. Dhakephalkar further questions maintainability of Writ Petition No.15919 of 2025 filed by Shri Anil Jain and Ms. Kavita Jain submitting that they did not file Appeal against the order of the Small Causes Court and have directly filed the present Petition. He submits that the Trial and the Appellate Courts have rightly directed restoration of possession of the suit premises by Defendant No.1. He prays for dismissal of both the Petitions.

14. Rival contentions urged on behalf of the parties now fall for my consideration.

15. Petitioners are aggrieved by grant of mandatory interim injunction in favour of Plaintiff for restoration of possession of suit premises during pendency of the suit. Plaintiff has pleaded the case of loss of possession sometime in December 2021 when Defendant No.1 allegedly removed her locks and replaced the same with his own locks. Loss of possession of suit premises has made Plaintiff by declaratory suit before the Court of Small Causes seeking a declaration of her tenancy alongwith Defendant Nos.2 and 3 in respect of the suit premises. Plaintiff also sought mandatory injunction for restoration of her possession in the suit premises. The Plaintiff's application for injunction at Exhibit-10 has been allowed by the Trial Court by order dated 30 September 2025 directing Defendant No.1 to remove his locks from the suit premises and to restore possession thereof in favour of the Plaintiff. The order of the Trial Court is confirmed by the Appellate Bench by dismissing Miscellaneous Appeal No.107 of 2025 filed by Defendant No.1.

16. So far as very strong *prima facie* case is concerned, in my view, there is ample material on record for inferring tenancy rights of Plaintiff and her possession thereof in respect of the suit premises. The erstwhile landlords had instituted R.A.E. Suit No.108/175 of 2013 for eviction of the Plaintiff, which is sufficient for drawing *prima facie* inference of Plaintiff's tenancy rights. Additionally, Plaintiff has relied on several rent receipts issued in her name in respect of the suit premises, which again creates a *prima facie* case of existence of tenancy rights in favour of the Plaintiff. Plaintiff has also relied upon letters issued to her by the

erstwhile landlord granting permission for carrying out additions and alterations in the suit premises as well as for induction of Satara Sahakari Bank Limited as a licensee in respect of the suit premises. Plaintiff has relied on Leave and License Agreement executed with Satara Sahakari Bank Limited.

17. If any doubt remained about tenancy rights of the Plaintiff, the same is cleared by the document executed in favour of Defendant No.1 in the form of Deed of Assignment dated 31 March 2021. By that Deed of Assignment, Defendant No.1 has purchased the building in which the suit premises are situated. In his own Deed of Assignment, list of tenants in respect of the suit premises is appended which includes the name of Plaintiff. Reliance of Defendant No. 1 on entry in the said Deed about suit premises being locked for 25 years is without substance in view of the leave and licence agreement executed with Satara Sahakari Bank upto 31 August 2010.

18. In my view therefore, Trial and Appellate Courts have rightly arrived at *prima facie* conclusion of tenancy rights of Plaintiff in respect of the suit premises. The Trial Court thereafter proceeded to examine whether tenancy of the Plaintiff was determined in any manner by Defendant No.1-landlord. The Trial Court has observed that in the Written Statement, Defendant No.1 has not pleaded the case of the surrender of tenancy rights by the Plaintiff. Defendant No.1 has mainly relied on remark made against the name of Plaintiff in the list of tenants appended to the Deed of Assignment to the effect '*this room has been*

closed for the last 25 years'. Mere remark in the list of tenants about closure of suit premises does not mean that there is a surrender of tenancy. As observed above, R.A.E. Suit No.108/175 of 2013 filed by the erstwhile landlords came to be dismissed for want of prosecution on 29 July 2013. Thereafter, neither any decree for eviction is passed nor there is any document executed by the Plaintiff or by Defendant Nos.2 and 3 surrendering the tenancy rights in respect of the suit premises. In my view therefore, the Trial and the Appellate Court have rightly recorded a *prima facie* conclusion of subsistence of tenancy rights of the Plaintiff. The case involves much higher footing than a usual case of prohibitory injunction and clearly warranted grant of mandatory temporary injunction.

19. Petitioners have come out with the case that Shri Anil Jain and Ms. Kavita Jain have been inducted as tenants in respect of the suit premises. However, this theory propounded by the Petitioners is riddled with several inconsistencies. According to Shri Anil Jain and Ms. Kavita Jain, their induction into suit premises occurred in November 2021 which is clear from averments in paragraph 3 of Writ Petition No.15919 of 2025. However, Defendant No.1 filed his Written Statement in the Suit on or about 15 February 2023. His Written Statement is silent about induction of Shri Anil Jain and Ms. Kavita Jain as tenants in respect of the suit premises. If indeed Shri Anil Jain and Ms. Kavita Jain were inducted as tenants in respect of the suit premises in November 2021, Defendant No.1 would have disclosed the said fact in the Written Statement. The contentions of Petitioners about induction of Shri Anil Jain and

Ms. Kavita Jain as tenants in November 2021 is also belied by Agreement for Transfer of Tenancy shown to have been executed on 3 November 2023. Perusal of the Agreement for Transfer of Tenancy would indicate that the same records that Shri Bhushan Madan Jalgaonkar was the outgoing tenant in respect of the suit premises when in fact he is the landlord. The Agreement records that Shri Bhushan Madan Jalgaonkar was occupying the suit premises as tenant upto the date of execution of the Agreement on 3 November 2023, which falsifies the claim of induction of Shri Anil Jain and Ms. Kavita Jain as tenants since November 2021.

20. After realizing that the story of induction of Shri Anil Jain and Ms. Kavita Jain as tenants in November 2021 would get falsified on account of absence of any averments in the Written Statement to that effect, Defendant No.1 filed application on 6 November 2023 seeking leave of the Court file Additional-Affidavit-in-Reply to the Injunction Application and vaguely pleaded therein that Shri Anil Jain and Ms. Kavita Jain were inducted as tenants in suit premises 'way back in the year 2021'. Alongwith the Additional-Affidavit-in-Reply Defendant No.1 produced copy of Rent Receipt dated 1 November 2021. Thus, the whole story of Petitioners about induction of Shri Anil Jain and Ms. Kavita Jain into the suit premises is riddled with inconsistencies.

21. It is the case of Plaintiff that Shri Anil Jain and Ms. Kavita Jain are having connection with the landlord Shri Bhushan Madan Jalgaonkar. The building in which suit premises are located has gone for

redevelopment. Priani Realty LLP is appointed as Developer to carry out redevelopment of the building which entity is incorporated on 28 September 2022 with Shri Ashwin Umesh Jalgoankar and Ms. Poonam Jitendra Jain as partners. Ms. Poonam Jitendra Jain appears to be sister-in-law of Ms. Kavita Anil Jain. Ms. Poonam is wife of Shri Jitendra Jain who is brother of Shri Anil Jain. The other partner Shri Ashwin Umesh Jalgaonkar is related to the landlord Shri Bhushan Madan Jalgaonkar. There is one more entity named Equo Realty Private Limited whose Directors are Shri Ashwin Umesh Jalgaonkar and Shri Jitendra Babulal Jain. Thus, Shri Anil Jain and Ms. Kavita Jain appear to be having close nexus with the landlord Shri Bhushan Madan Jalgaonkar.

22. Considering the above position, this Court is *prima facie* convinced that Petitioners have hatched a conspiracy of taking over possession of the tenanted premises and showing induction of Shri Anil Jain and Ms. Kavita Jain for the purpose of creation of complications in the suit. The whole process is carried out apparently with a view to deny right to the Plaintiff in respect of the redevelopment of the building. The case thus involves rare circumstances clearly warranting grant of interim mandatory injunction. The case clearly satisfies the tests laid down by the Apex Court in ***Dorab Cawasji Warden*** (supra). The Trial and the Appellate Courts have exercised sound judicial discretion in the light of facts and circumstances of the case. There is a very strong probability of Plaintiff securing declaratory relief in her favour. Her case stands on a higher standard of *prima facie* case normally required for a prohibitory injunction. She would suffer irreparable and serious injury if mandatory

interim injunction was refused. In my view therefore, the Trial Court has rightly exercised jurisdiction in granting interim mandatory injunction in favour of the Plaintiff. Therefore, reliance by Petitioners on judgments in *Dorab Cawasji Warden, Samir Narain Bhojwani* and *Hammad Ahemed* (supra) far from assisting their case, actually militates against them.

23. Even otherwise, this Court is not inclined to exercise extraordinary jurisdiction under Article 227 of the Constitution of India considering the conduct of the Petitioners.

24. So far as Writ Petition No.15919 of 2025 filed by Shri Anil Babulal Jain and Ms. Kavita Jain is concerned, the same is actually not maintainable as they have not exercised the remedy of seeking leave to file Appeal against the order passed by the Small Causes Court and without filing Appeal, have straightaway challenged the orders passed by the Small Causes Court and the Appellate Court by filing Writ Petition in this Court. However, since Shri Anil Babulal Jain and Ms. Kavita Jain are otherwise not entitled to any relief on merits, I have proceeded to decide the Writ Petition filed by them on merits rather than dismissing the same on technical reason of maintainability.

25. The Petitioners have heavily relied upon the factum of building going for redevelopment for the purpose of urging before this Court that the interim mandatory injunction be vacated for the purpose of smooth redevelopment of the building. It is contended by Mr. Joshi on behalf of the landlord that Plaintiff would create complications and would

indefinitely delay the redevelopment process for which 75% of the tenants have given their consents. If the possession of the suit premises is restored in favour of the Plaintiff, I do not see any reason why she and Defendant Nos.2 and 3 would oppose redevelopment process if they are given all benefits which are offered to the other tenants of the building. I am therefore of the view that mere possibility of redevelopment of the building cannot be a reason for setting aside the impugned orders passed by the Trial and the Appellate Courts and for directing an arrangement for deposit of the transit rent in the Court. The rent must be paid to Plaintiff and Defendant Nos. 2 and 3, who need to cooperate with the redevelopment process if they are given same offer as made to other tenants of the building. If Plaintiff and Defendant Nos. 2 or 3 fail to cooperate in the redevelopment process, Defendant No. 1 shall be at liberty to apply for appropriate reliefs from the Small Causes Court.

26. Subject to the observations made above, both the Writ Petitions are **dismissed** without any order as to costs.

(SANDEEP V. MARNE, J.)

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signed by
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KATKAM
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