



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO.16372 OF 2025

Trustees of the Parsi Punchayat Funds
and Properties and Ors.

...Petitioners

V/s.

Mrs. Lalita Kumar Shah and Ors.

...Respondents

Mr. Vineet Naik, *Senior Advocate with Mr. Jamsheed Master, Mr. Eshaan Swaroop, Mr. Agnel Carneiro, Mr. Vipul Bilve, Mr. Smith Barboz i/b. M/s. Mulla and Mulla & Cragie Blunt & Caroe for the Petitioners.*

CORAM: SANDEEP V. MARNE, J.

DATED: 18 MARCH 2026.

P.C.:

- 1) Petition challenges order dated 19 August 2025 passed by the Executing Court on Application at Exhibit-56 filed by the Petitioners /Decree Holders in Obstructionist Notice No.61 of 2008.
- 2) Heard Mr. Naik, the learned Senior Advocate appearing for the Petitioners and considered the submissions canvassed by him.
- 3) Mr. Naik invites my attention to contents of affidavit-in-reply filed by Obstructionist No.1 in which it is pleaded in paragraph 4 as under:-

4. I say that the Garage premises bearing NoS.1 and 5 with which I am concerned are situated at the property known as Dr. J. J. Doshi Estate wherein there are about 15 more premises existing and in lawful use Occupation and possession of the respective tenants being the other Obstructionists situate at the suit property. It is submitted that I am the tenant of the said garage premises bearing Nos. 1 and 5 of which Dr. B. N. Doshi and Dr. Kirit D. Doshi were the owners and Landlords till January, 2008 as informed by them as stated hereinafter. I say that I am possessed of the Rent Receipts issued by said Dr. B. N. Doshi and Dr.Kirit E. Doshi in their capacity as Owners in respect of said garage premises bearing Nos.1 and 5 and as such I am well protected under the Rent Statute. I say that the said premises are being used for our business purposes run under the name and style of R. B. Sunkerkar therein with all necessary Licences as required under the Law since last several years and rely upon the same when produced. I say that the documents relied upon by us as listed in the list of documents herewith will establish my legal rights as Tenants in respect of the said garage premises No.1 and 5 and as such I am protected under the provisions of Rent Statute.

4) Mr. Naik relies on judgment of this Court in ***Sanjay Ramchandra Parab V/s. Ashok D. Bhuta***¹ in support of his contention that once the obstructionists are inducted by the tenant /licensee by constructing structures on open piece of land and once decree for eviction is passed against the original licensee/ tenant, his inductee must necessarily vacate all the structures as well. He submits that since there is express admission in paragraph 4 of the affidavit-in-reply filed by Obstructionist No.1 that he was inducted by original tenant/ licensee into the structure, the issue involved in Obstructionist Notice is squarely covered by judgment of this Court in ***Sanjay Ramchandra Parab*** (supra). He submits that similar admissions are given by all the Obstructionists. Mr. Naik submits that Obstructionist Notice is pending since the year 2008 and in

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view of express admission by the Obstructionist, there is no point in taking Obstructionist Notice to trial.

5) In my view, instead of deciding the Obstructionist Notice without evidence, it would be appropriate to expedite the proceedings in the Obstructionist Notice, which is pending since the year 2008. It would therefore be appropriate to direct that the Executing Court shall forthwith proceed to record evidence in the Obstructionist Notice and to decide the same considering the law enunciated by this Court in *Sanjay Ramchandra Parab* (supra).

6) Writ Petition is accordingly **disposed of** with a request to the Executing Court to decide Obstructionist Notice No.61 of 2008 as expeditiously as possible, preferably within a period of six months.

7) All rights and contentions of the parties are expressly kept open to be decided by the Executing Court.

[SANDEEP V. MARNE, J.]