

Ajay

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

APPEAL FROM ORDER NO. 43 OF 2026

Kunti Deep Co-operative Housing Society Appellant / Orig.
Limited .. Defendant No.2

Versus

Pannaben P. Monani and Anr. .. Respondents

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- Mr. Rohan Savant a/w. Dr. Ish Jain, Mr. Soham Bhagwat, Advocates i/by Kiran Jain & Co. for Appellant.
- Mr. Dhruva Gandhi a/w. Mr. Nikhil Wable and Ms. Vishakha Ghokhani, Advocates i/by Jayakar & Partners for Respondent No.1.
- Mr. Sachin Vajale, Advocate for Respondent No.2 – BMC.

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CORAM : MILIND N. JADHAV, J.

DATE : FEBRUARY 16, 2026.

P.C.:

1. Heard Mr. Savant, learned Advocate for Appellant; Mr. Gandhi, learned Advocate for Respondent No.1 and Mr. Vajale, learned Advocate for Respondent No.2 – BMC.

2. On 12.01.2026, after hearing the learned Advocate for Appellant and Mr. Vajale, the following order was passed:-

“1. Heard Mr. Savant, learned Advocate for Appellant – Org. Defendant No. 2 and Mr. Vajale, learned Advocate for Respondent No. 2 - Org. Defendant No. 1.

2. Considering that the suit structure has already been demolished as recorded in the previous order passed by the learned Trial Court and the fact that Court has kept the substantive right of the occupant of the notice structure open, the impugned order is prima facie infructuous. In that view of the matter, the status quo which is operating hurts the prospectus of Appellant Society and further redevelopment and hence it deserves to be stayed. Hence, it is stayed.

3. In view of the above, issue notice to the Respondents made returnable on 12.02.2026. Humdast permitted. In addition to Court's notice, Appellant is directed to serve copy of the AO along with copy of this order on the Respondents and inform them about the next date of hearing by any permissible mode of service and file appropriate affidavit of service with tangible proof thereof on or before the next date.

4. After receiving the notice, Respondents to file affidavit-in-reply on or before the next date, if so desired with an advance copy to the Advocate for Appellant.

*5. Stand over to **12th February, 2026** under the caption "**for passing Orders**".*

3. Present Appeal From Order can be disposed of by the following order.

4. Learned Advocate draws my attention to the impugned order appended at page No.183 of the Appeal From Order passed in Suit No.563 of 2015 allowing order in Chamber Summons No.284 of 2015 therein. The Society is aggrieved with the remark passed in paragraph No.4 of the order in Chamber Summons which states that 'Earlier order, if any, to continue till next date'. Mr. Savant would construe the same to be the order of *status quo* which would hamper further redevelopment of the Society. He would submit that because of this order, the Society is unable to proceed with further redevelopment thereby jeopardizing the rights of eligible members.

5. In so far as original Plaintiff who is private Respondent before me is concerned, the learned Trial Court has primarily while passing the said order kept all his rights expressly open and has also

given an imprimatur which is clear from the reading of the order that Plaintiff was in possession of the suit premises. Admittedly the suit premises have now been demolished for redevelopment. The learned Trial Court has also opined that the Society which is duly represented by Mr. Savant before me had shown its willingness to see the possibility of providing accommodation to the Plaintiff in the redevelopment project.

6. Equally, there is a direction to the Corporation given by the learned Trial Court that it shall reconsider at the earliest within three months the structure area of Plaintiff for providing additional FSI / DDR considering the commercial activity of Plaintiff which the Plaintiff was carrying on in the said premises in order to accommodate the Plaintiff in redevelopment. Fructification of this order is required to be carried out at the behest of the Plaintiff. However, the order which states that earlier order, if any, to continue stands set aside in the above facts since there cannot be an embargo on Defendant No.2 – Society to go ahead with redevelopment.

7. It is clarified that there is no order of *status quo* which does not enable the Society to proceed with further redevelopment. However the same will be subject to the right of Plaintiff as directed by the learned Trial Court. If Plaintiff chooses to exercise her rights, she is free to make such Application to the Corporation and if so made the

same shall be determined by the Corporation in accordance with law as directed by the learned Trial Court.

8. In view of the above, Appeal From Order is disposed.

[MILIND N. JADHAV, J.]

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