

4. Mr. Kapse, learned Advocate for the Appellants - Society and Developer informs the Court that all other members have vacated their respective flats and handed over the same to the Society for redevelopment save and except the Respondent. Respondent is in occupation of flat No. 11 in the Society. According to the Appellants - Plaintiffs, out of 50 members of the Society 49 members have vacated their respective flats and Respondent - Defendant who is occupant of Flat No. 11 refused to vacate the flat. Plaintiffs have alleged that due to this reason development of the building has been stalled. Plaintiff No. 2 who is the developer has procured Letter of Intent (LOI) issued by SRA dated 13.05.2022 and Intimation of Approval (IOA) dated 02.07.2025 from the Competent Authority. Admittedly building of the Society is in dilapidated condition. According to Appellants the reason for non-vacating the flat is that the said flat stands in the joint names of Defendant and her mother-in-law - Leelavanti Mathurdas Ganatra.

5. Mr. Pai, learned Advocate for Defendant would submit that Defendant and her mother-in-law are the joint owner of the Flat No. 11. The share certificate of the said flat stands in the joint names of the Defendant and her mother in law. He would submit that mother in law of Defendant has expired on 23.06.2017. However the records and the share certificate of the society have not been changed. The Defendant is in exclusive use and occupation of the said flat since

long. Mr. Pai would submit that the actual reason for non-vacating of the flat is that the Appellant No. 2 has not executed PAAA with Respondent as per the terms of the Development Agreement.

6. It is seen that the building of the Society has gone for redevelopment. Since the Defendant is in use and occupation of the said flat and the Society has not received any third party claim in respect of the rights of the late Mrs. Leelavanti Mathurdas Ganatra (the mother in law) and the Defendant is now willing to hand over vacant and peaceful possession of the said flat for redevelopment of the Society building after Appellant No. 2 executing and registering the Permanent Alternate Accommodation Agreement(PAAA) with the Defendant in lieu of the said flat and also agreeing to hand over possession of PAAA to the Defendant after completion of the new building, it is therefore directed that the Appellant No. 2 shall pay all monetary entitlements under the said PAAA to the Defendant. In view of the ratio laid down by this Court in the case of ***Ritesh Haldar v. Elite Housing LLP and Ors.*** in Commercial Arbitration Appeal (L) No. 14486 of 2025 and by consent of the Appellant Nos. 1 and 2 and Defendant herein, the following order is therefore passed.

7. It is agreed between the parties that they shall execute and register the PAAA in time bound manner as under:

7.1. On 23.01.2026 or 24.01.2026, Respondent - Defendant shall remain present for registration before the Sub-Registrar Office at Nahur for execution of the PAAA. The Appellants have already provided final draft copy of the PAAA Agreement to the Respondent today before this Court duly signed by the Appellant No. 2.

7.2. On or before registration of PAAA, Respondent shall pay the amount of Rs. 31,800/- for stamp duty for additionally purchased area and Rs. 5,300/- towards the registration charges to Appellant No. 2. Respondent shall make the payment towards consideration of additionally purchased area as per the terms of the PAAA.

8. After registration of the PAAA, Respondent shall hand over keys and vacant and peaceful possession of the suit flat (Flat No. 11, C - Wing) to the Society for redevelopment of the Society building on the next day after registration is done.

9. At the time of handing over possession of the suit flat Appellant No. 2 shall hand over 36 months post-dated cheques towards payment of hardship compensation, cheque for logistic charges, cheque for brokerage, cheque for corpus fund as per the terms of PAAA and the Plaintiffs shall ensure that none of the cheques are dishonoured or stopped under any circumstances.

10. Respondent shall immediately thereafter file Application seeking transfer of share Certificate and shares to her name and deletion of the name of her deceased mother with the Society. On receipt of the requisite Application with fees and undertaking, the Managing Committee of the Society shall transfer the share certificate of the existing flat No. C-11 in the name of Respondent by deleting the name of her mother in law from the share certificate by passing appropriate minutes/ resolution. The Appellant Society shall conduct its Managing Committee meeting within 30 days from the receipt of the Application from the Respondent and thereby pass appropriate resolution / minutes and thereafter issue to the Respondent the share certificate for flat No. C-11 accordingly. The said resolution / minutes passed by the Managing Committee shall be kept for ratification in the next AGM. The agenda for transfer of share certificate shall be placed before next AGM for ratification. The share certificate in respect of existing flat No. C-11 shall be transferred by the Society in the sole name of Respondent after deleting the name of her mother in law subject to Respondent making a requisite application along with prescribed fees to the Society for the said transfer on or before 28.02.2026. The new share certificate for the PAAA shall also be issued by the Appellant Society in the sole name of the Respondent.

11. Liberty to apply in case of any difficulty.

12. Before the share certificate is transferred in the name of the Respondent, the Respondent shall file an affidavit cum indemnity with the Society along with her Application thereby indemnifying the Appellant Society from any future claim by any third party in respect of the subject flat. Applicant No.1 Society shall not be held responsible for any liability in view of the transfer of share certificate in the name of the Respondent.

13. The above order is without prejudice to any other rights, interest, claims and contentions available to the parties as per law.

14. Appeal from Order and Interim Application are both disposed of in the above terms as agreed by both the parties.

[MILIND N. JADHAV, J.]

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