

HARSHADA H. SAWANT
(P.A.)

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

(902) APPEAL FROM ORDER NO.264 OF 2025
WITH
INTERIM APPLICATION NO.7759 OF 2025
IN
APPEAL FROM ORDER NO.264 OF 2025

M/s. Atlantic and Ors. .. Appellants
Versus
M/s. Shree Sai Developers and Ors. .. Respondents

WITH
(903) APPEAL FROM ORDER NO.324 OF 2025
WITH
INTERIM APPLICATION NO.12985 OF 2025
WITH
INTERIM APPLICATION NO.8511 OF 2025
IN
APPEAL FROM ORDER NO.324 OF 2025

M/s. Atlantic and Ors. .. Appellants
Versus
M/s. Shree Sai Developers and Ors. .. Respondents

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- Mr. Mayur Khandeparkar a/w. Mr. Nishant Tripathi, Mr. Pranav Vaidya, Advocates i/by M. Tripathi &Co. for Appellants in both Appeal from Orders.
 - Mr. Atul Damle, Senior Advocate a/w. Mr. Suresh Sabrad, Mr. Amey Sawant, Ms. Neha Parte, Mr. Pratik Sabrad and Ms. Eshwaree Kudalkar, Advocates for Respondent Nos.1 to 3 in Appeal from Order No.264 of 2025.
 - Mr. Rahul Kate a/w. Mr. Abubakar Patel, Advocates for Respondent Nos.3 to 6 in Appeal from Order No.324 of 2025 and Respondent Nos.8 to 15 in Appeal from Order No.324 of 2025.
 - Mr. S. M. Gorwadkar, Senior Advocate a/w. Mr. Jeetendra Sacchdev, Advocates i/by J. S. Legal for Respondent Nos.4 to 5 in Appeal from Order No.264 of 2025 and Respondent Nos.4 to 7 in Appeal from Order No.324 of 2025.
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CORAM : MILIND N. JADHAV, J.

DATE : JANUARY 07, 2026

P.C.:

1. Heard Mr. Khandeparkar, learned Advocate for Appellants in both Appeal from Orders; Mr. Damle, learned Senior Advocate for Respondent Nos.1 to 3 in Appeal from Order No.264 of 2025; Mr. Kate, learned Advocate for Respondent Nos.3 to 6 in Appeal from Order No.324 of 2025 and Respondent Nos.8 to 15 in Appeal from Order No.324 of 2025 and Mr. Gorwadkar, learned Senior Advocate for Respondent Nos.4 to 5 in Appeal from Order No.264 of 2025 and Respondent Nos.4 to 7 in Appeal from Order No.324 of 2025

2. On 05.12.2025, after hearing the learned Advocates for the parties in the present case, the following order was passed:-

“1. Heard learned Advocates appearing for the parties.

2. Mr. Sabrad, learned Advocate for Respondent Nos. 1 to 3 undertakes to file appropriate affidavit in reply setting out the steps proposed to be taken by Respondent Nos. 1 to 3 to apply for subdivision of the consolidated plot of 970 sq.mtrs. to CIDCO to segregate the two plots measuring 200 sq.mtrs. and 250 sq.mtrs. which are the subject matter of the Suit proceeding and undertake not to create any third party rights with respect to the same. Since the Suit is for specific performance in the given facts of the present case, aforesaid affidavit is directed to be filed within a period of two days from today and whatever stated in the affidavit shall be complied with by the Defendant Nos. 1 to 3. Copy of the affidavit shall be given to Plaintiffs and other Defendants in advance. Needless to state that the aforesaid statement made by Mr. Sabrad will not affect the balance portion of 520 sq. mtrs. out of the total plot of 970 sq. mtrs.

3. The villagers who are the original owners are represented by Mr. Gorwadkar, learned Senior Advocate appearing for Respondent Nos. 4 and 5 in AO 264/2025 & for Respondent Nos. 4 to 7 in AO 324/2025 as also Mr. Patel, learned Advocate appearing for Respondent Nos. 3 to 6 in AO 264/2025 & for Respondent Nos. 8 to 15 in AO 324/2025. Needless to state that undertaking filed on affidavit by Defendant Nos. 1 to 3 shall specifically give a timeline for making the application for

sub-division of the consolidated plot, to separate 450 sq. mtrs. out of the total consolidated plot and comply with all requisition of CIDCO as well as under the Navi Mumbai Disposal of Land Regulations, 2008 under which allotment of plots has been made.

4. Stand over to 7th January, 2026. To be placed under the caption "**First on Board**".

3. In compliance of the above order, Mr. Sabrad on behalf of Respondent Nos.1 to 3 have filed Affidavit dated 07.01.2026. For convenience, the said Affidavit is scanned and reproduced below to remove any ambiguity regarding nomenclature and areas of the subject lands which are the suit lands / properties:-

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
APPEAL FROM ORDER NO. 264 OF 2025
[From Special Civil Suit No. 99 of 2024]
AND
APPEAL FROM ORDER NO. 324 OF 2025
[From Special Civil Suit No. 100 of 2024]
DISTRICT - THANE

1 M/s. Atlantic, A Partnership firm and }
Ors } ... Appellants
Versus
1. M/s. Shree Sai Developers and Ors } ... Respondents

AFFIDAVIT IN REPLY
(On behalf of Respondent Nos. 1 to 3)

I, Ravindra Govind Gavankar, aged 50 years, Occupation Business, residing at 001, Anisha Kutir, Plot no. 62, Sector 31, Vashi, Navi Mumbai, presently authorised and competent to swear this Affidavit on behalf of Respondent Nos. 1 to 3, do hereby solemnly affirm and state as under:

2

1. I say that I am conversant with the facts and circumstances of the present matter and am therefore competent to swear this Affidavit in Reply. Save and except what is expressly admitted herein, all the allegations, averments, contentions and inferences contained in the Appeal / Application are denied as false, incorrect, misleading and not binding upon Respondent Nos. 1 to 3. This Affidavit is being filed without prejudice to the rights, remedies and contentions of Respondent Nos. 1 to 3 in law and in equity and reserving my right to file detailed affidavit as and when occasion arises or if so directed by this Hon'ble Court.
2. I say that in Special Civil Suit No. 99 of 2024, the Appellant is seeking the relief of specific performance of the Agreement dated 28th October 2013 allegedly executed between the Appellant and me, as well as specific performance of the Agreement dated 20th November 2009 allegedly executed between Respondent Nos. 4 and 5 and me. I further say that in Special Civil Suit No. 100 of 2024, the Appellant is seeking the relief of specific performance of the Agreement dated 03.05.2013 allegedly executed between the Appellant and me, and of the Agreement dated



3

04.09.2012 allegedly executed between me and Respondent Nos. 4 to 7.

3. I say that the Appellant has preferred the captioned Appeal from Order challenging the common order dated 13.03.2025 passed by the Learned Civil Judge, Senior Division, Belapur, whereby the Interim Application under Order XXXIX Rules 1 and 2 of the Code of Civil Procedure, 1908, below Exhibit-5, came to be rejected.
4. I say that Respondent Nos. 1 to 3 have acted only in the limited and facilitative capacity of aggregators of entitlement of the Project Affected Persons (PAPs). I say that such aggregation was undertaken only for administrative and procedural purposes before CIDCO Ltd., and subject always to CIDCO's final scrutiny, approval and allotment.
5. I say that in AO No. 264 of 2025, Respondent Nos. 1 to 3 aggregated the entitlement of Respondent Nos. 4 and 5, to the extent of 200 square meters only. The said aggregation was limited, conditional and subject to further developments, approvals and CIDCO's allotment process.



4

6. I say that in AO No. 324 of 2025, Respondent Nos. 1 to 3 aggregated the entitlement of Respondent Nos. 4 to 7, to the extent of 250 square meters only. Thus, the total entitlement aggregated from Respondent Nos. 4 to 7 under both proceedings was 450 square meters (200 + 250 sq. meters.).
7. I say that the aforesaid aggregated entitlement of 450 square meters subsequently came to be amalgamated with the entitlement of Respondent Nos. 6 to 13, who were independently held entitled to 520 square meters. Consequently, CIDCO Ltd., through its process of allotment by lots, declared allotment of Plot No. 3, admeasuring 970 square meters, situated at Sector 11, Vashi Node, Taluka and District Thane.
8. I say that, without prejudice to the rights and contentions of Defendant Nos. 1 to 3 in the aforesaid civil suits and Respondent Nos. 1 to 3 herein within a period of one week would make an application with CIDCO Ltd., for withdrawal/sub-division of the entitlement of Respondent Nos. 4 and 5, as well as withdrawal/sub-division of the entitlement of Respondent Nos. 4 to 7, to the extent of 450



5

square meters (200 + 250 sq. meters), from Plot No. 3. I further undertake upon withdrawal/sub-division of the entitlement of Respondent Nos. 4 to 7, to the extent of 450 square meters (200 + 250 sq. meters.), from Plot No. 3, I shall not create any third party right whatsoever with respect to the afore stated entitlement of 450 square meters (200 + 250 sq. meters).

9. It is clarified that the aforesaid proposed request is being made without any admission of rights or liabilities of the Plaintiff/Appellant and solely to avoid any ambiguity, dispute or unnecessary complication, and shall remain subject to the scrutiny, discretion and final decision of CIDCO Ltd.
10. Respondent Nos. 1 to 3 reserve their right to file additional affidavits, documents and submissions as and when necessary. Nothing stated herein shall be construed as an admission of any liability or obligation towards the Appellant.
11. In the above premises, it is most respectfully prayed that this Hon'ble Court be pleased to take the present Affidavit in Reply on record and to pass such further orders and/or



6

issue directions to the Respondent-CIDCO as this Hon'ble Court may deem fit, just and proper in the facts and circumstances of the present case.

Whatever stated hereinabove is true and correct to the best of my knowledge and belief and I believe the same to be true.

Solemnly affirmed at Navi Mumbai }

On this 7th day of January 2025 }

07 JAN 2025

Deponent

Identified by me –

[Signature]

Advocate for Respondent No. 1 to 3.

Before me,

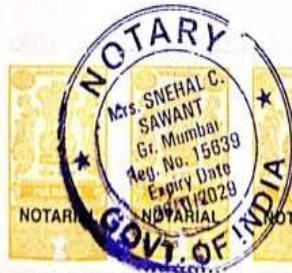
ORIG. PAN CARD / AADHAR CARD / DRIVING LICENCE
NOTES: 9935 6633 SEEN & RETURNED

BEFORE ME

[Signature]

Mrs. SNEHAL C. SAWANT
B.Com. L.L.B.
NOTARY GOVT. OF INDIA
Regd. No. 15639
101, Visaria Chambers, 1st Floor,
74, Janmabhoomi, Fort, Mumbai-1

Noted & Registered
Reg. No. 50 / 63
Page No. 10
Date ... 07 JAN 2025



4. All parties including CIDCO are directed to take cognizance of this order which has been passed today.

5. In view of the aforesaid Affidavit having being filed, after hearing the parties, both the Appeal from Orders can be conveniently disposed of by passing the following order:-

6. The undertakings given by Respondent Nos.1 to 3 in the said Affidavit are hereby accepted by this Court as an undertaking given to the Court and the following directions are passed:-

6.1. Respondent Nos.1 to 3 shall within a period of one week from the date of this order, submit a formal Application to CIDCO Limited for subdivision / withdrawal of the entitlement of 450 sq.mtrs. from the total proposed allotment of Plot No.3 admeasuring 970 sq.mtrs. Sector – 11, Vashi Node, Taluka and District – Thane as per lots conducted by CIDCO Limited on 04.01.2024 unconditionally.

6.2. All other Respondents shall cooperate with Respondent Nos.1 to 3 in making such Application to CIDCO Limited as required.

6.3. Pending the disposal of the two Suits, process of subdivision and withdrawal of the entitlement of 450 sq.mtrs. (200 sq.mtrs. + 250 sq.mtrs) from Plot No.3, Defendant Nos.1 to 3 and 4 and 5 in SCN No.99 of 2024 and Defendant Nos.1 to 3 and 4 to 7 in SCS No.100 of 2024 are restrained from creating any third-party rights, title, or

interest of any nature whatsoever in respect of entitlement of 450 sq.mtrs. (i.e. 200 sq.mtrs and 250 sq.mtrs.)

6.4. Once the process of subdivision / withdrawal of the entitlement of 450 sq.mtrs from Plot No.3, admeasuring 970 sq.mtrs, Sector – 11, Vashi Node, Taluka and District – Thane is completed, the order of *status quo* in respect of the entitlement of Defendant Nos.6 to 13 in Special Civil Suit No.99 of 2024 and Defendant Nos.8 to 15 in Special Civil Suit No.100 of 2024 to the extent of 520 sq.mtrs. shall stand vacated.

6.5. CIDCO Limited is directed to receive and process the Application for subdivision / withdrawal of the entitlement of 450 sq.mtrs. filed by Respondents namely Defendant Nos.1 to 3 as directed hereinabove as expeditiously as possible and in any event within a period of four weeks from the date of such Application being filed by Respondents.

6.6. It is clarified that the aforementioned directions and the underlying undertakings are without prejudice to the rights, remedies and contentions of all parties in pending Special Civil Suit No.99 of 2024 and Special Civil Suit No.100 of 2024.

7. Needless to state that the Trial Court is requested by this Court to dispose of the two Suits as expeditiously as possible and strictly in accordance with law.

8. Liberty is granted to the parties to move this Court in the event of any technical difficulty in implementation of these directions.

9. With the above directions, Appeal from Order No.264 of 2025 and Appeal from Order No.324 of 2025 are both allowed and disposed in above terms. In view of disposal of Appeal from Orders, pending Interim Application No.7759 of 2025 and Interim Application No.12985 of 2025 and Interim Application No.8511 of 2025 are also accordingly disposed.

H. H. SAWANT

[MILIND N. JADHAV, J.]

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SAWANT
Digitally signed
by HARSHADA
HANUMANT
SAWANT
Date: 2026.01.07
18:16:03 +0530