IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

INTERIM APPLICATION NO.13088 OF 2025
IN
APPEAL FROM ORDER NO.1049 OF 2023

Tarun Mahendra Patel and Anr. **...Applicants**

<u>In the matter between</u>

Amool Shivaji Rokade **...Petitioner**

V/s.

Tarun Mahendra Patel and Ors. **...Respondents**

WITH

INTERIM APPLICATION (STAMP) NO.38298 OF 2025
IN
APPEAL FROM ORDER NO.1049 OF 2023

Amool Shivaji Rokade **...Applicant**

<u>In the matter between</u>

Amool Shivaji Rokade **...Petitioner**

V/s.

Tarun Mahendra Patel and Ors. **...Respondents**

Mr. Mayur Khandeparkar, *i/b. Mr. Mehul A. Shah for the Applicant in IA/13088/2025 and for Respondent in IAST/38298/2025.*

Mr. Nitin Gaware Patil *with Mr. Vaibhav Salvi with Mr. Ashwat Bhoir for Respondent in IA/13088/2025 and for the Applicant in IAST/38298/2025*

CORAM: SANDEEP V. MARNE, J.

DATED: 17 FEBRUARY 2026.

<u>P.C.:</u>

1) I have heard Mr. Khandeparkar, the learned counsel appearing for the Applicants in Interim Application No.13088 of 2025

and Mr. Gaware Patil, the learned counsel appearing for the Applicant in Interim Application (stamp) No.38298 of 2025.

2) After having considered the submissions canvassed by the learned counsel appearing for the parties this Court is satisfied that the Appellant-Developer has consistently avoided and deliberately failed to pay transit rent to the Respondent Nos.1 and 2/Defendants in the Appeal. The Interim Applications were kept pending ensuring that all dues towards transit rent are cleared. On 24 December 2025 the Appellant handed over cheque for Rs.17,32,935/- to Respondent Nos.1 and 2/Defendants. The issue that remained was in respect of the property taxes.

3) It has now transpired that next tranches of transit rent became due and payable on 26 December 2025 and 26 January 2026. Admittedly, the Appellant has failed to pay the transit rent for the said two months. In view of this conduct exhibited by the Appellant, this Court is not inclined to conduct any further enquiry into the property taxes. There is yet another reason why it is not necessary to devote any further time on conducting enquiry with regard to quantum of property taxes. According to Respondent Nos.1 and 2/Defendants, the total property taxes payable in respect of the Lodge and two shops for the period from 1 April 2023 to 24 April 2024 together with repairs cess for the period from 1 April 2017 to 31 March 2025 is roughly to the tune of Rs.2,12,000/-. The Appellant disputes this figure and submits that higher amount is payable towards property taxes. The Appellant has liability to pay transit rent of Rs.2,87,500/- per month. Considering this position

and the fact that the amount involved in respect of the property tax is insignificant, it is not necessary for this Court to devote any further time in finding out the exact amount of property taxes deductible from the liability of the Appellant to pay the transit rent. In that view of the matter this Court accepts the following amounts in respect of the property taxes:-

Particulars	Amount (Rs.)
Outstanding property tax in respect of the subject property from 1.4.2023 to 31.3.2024(Rs.59,934+59,934+15,107+15,107	1,50,082/-
Outstanding property tax in respect of the subject property from 1.4.2024 to 30.4.2024 (Rs.67,354+68,096+17,164) Rs.1,69,778/12+14,148.17)	14,148.17
Outstanding Repair Cess in respect of the subject property from 1.4.2017 to 31.3.2025	48,448/-

4) At this stage Mr. Gaware Patil submits that Respondent Nos.1 and 2/Defendants are liable to pay property taxes in respect of all the six shops. Perusal of the recital Nos.6 and 9 of the Permanent Alternate Accommodation Agreement dated 12 April 2024 (**PAAA**) would indicate that the Appellant himself has accepted the position that the Agreement is executed only in respect of Green Lodging House and the two shops. The Appellant himself has accepted that the claim of Respondent Nos.1 and 2/Defendants was in respect of only two out of the six shops. It is further apparent from order dated 24 December 2025 that Respondent Nos.1 and 2/Defendants have not claimed any rights in respect of the remaining four shops. In that view of the matter, Respondent Nos.1 and 2/Defendants are not liable to pay property tax or repair cess in respect of the said four shops. In respect of two shops, the

property tax and repair cess is already factored in above computations. This, in my view, puts an end to the dispute over property tax liability of Respondent Nos.1 and 2/Defendants and the Appellant is precluded from raising any dispute in relation to property taxes from Respondent Nos.1 and 2/Defendants.

5) After deducting the amount of property taxes and repair cess as indicated above, the liability of the Appellant to pay transit rent upto 26 February 2026 is Rs.7,91,886.83. Mr. Gaware Patil, after taking instructions from the Appellant, who is personally present before the Court, fairly makes a statement that amount of Rs.7,91,886/- shall be paid to Respondent Nos.1 and 2-Defendants by 18 February 2026. The statement is recorded and accepted as undertaking given to the Court.

6) Mr. Khandeparkar invites attention of the Court to clause 5 of the PAAA, under which the Appellant-Developer is under obligation to pay part of corpus upon the Developer after obtaining plinth commencement certificate. He places on record copy of plinth commencement certificate dated 2 December 2025. Accordingly, Mr. Gaware Patil, on instructions from the Appellant-Developer, fairly submits that corpus amount, which has fallen due, shall be paid to Respondent Nos.1 and 2/Defendants on or before 31 March 2026.

7) This Court has noticed consistent defaults on the part of the Appellant-Developer in paying transit rent and Respondent Nos.1 and 2/Defendants are repeatedly made to approach this Court for seeking payment of due amount of transit rent. Even during pendency of these Interim Applications the Appellant has shown audacity of not paying

transit rent due and payable on 26 December 2025 and 26 January 2026. This Court takes serious note of this conduct on the part of the Appellant. This Court cannot continue to keep vigil on the conduct of the Appellant for ensuring payment of transit rent to Respondent Nos.1 and 2/Defendants. In that view of the matter some extraordinary measures need to be adopted in the present case to ensure that Respondent Nos.1 and 2 /Defendants are not made to approach this Court with complaint of non-payment of transit rent. It is in the light of these peculiar facts of the present case, it is directed that in the event of the Appellant-Developer committing default in payment of transit rent for two consecutive months, Respondent Nos.1 and 2/Defendants shall be entitled to write to the Municipal Corporation of Greater Mumbai for not issuing any further permissions to the Appellant-Developer in respect of the project in question. Upon receipt of such intimation from Respondent Nos.1 and 2/Defendants, the MCGM shall accordingly stop issuing any further clearances to the project of the Appellant. This direction would be in addition to any other remedies that the Respondent Nos.1 and 2 /Defendants can exercise for recovery of arrears of transit rent from the Appellant-Developer.

8) Appellant-Developer would be at liberty to exercise legal remedies in respect of his claim towards scrap.

9) With the above directions, both the Interim Applications are **disposed of**.

[SANDEEP V. MARNE, J.]

Signed by: Megha S. Parab
Designation: PA To Honourable Judge
Date: 17/02/2026 19:31:31