

Kavita S.J.

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

COMMERCIAL APPEAL FROM ORDER NO.26 OF 2025

**Agarwal and Associates Builder & Developers
& Ors.,** **...Appellants/
Defendants**

Versus

Sai Sadan Co-operative Housing Society Ltd., **...Plaintiff/
Respondent**

AND

COMMERCIAL APPEAL FROM ORDER NO.27 OF 2025

**Dindoshi Sai Sadan Co-operative Housing
Society Ltd.,** **...Appellant/
Org. Plaintiff**

Versus

**Agarwal and Associates Builder & Developers
& Ors.,** **...Respondents**

Mr. Anoshak Davar a/w Mr. Dhaval Sethia i/b Shailesh Rai for Appellants in COMAO 26/2025 and for Respondents in COMAO 27/2025.

Mr. Ashish Deep Verma a/w Mr. Aditya Parmar for Respondent in COMAO 26/2025 and for Appellant in COMAO 27/2025.

Mr. Swayam Chopda, OSD, Court Receiver present.

**CORAM : R.I. CHAGLA AND
ADVAIT M. SETHNA, JJ.**

DATED : 7TH JANUARY, 2026.

COMMON ORDER :

KAVITA
SUSHIL
JADHAV

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1. Having heard Mr. Anoshak Davar and Mr. Ashish Deep

Verma, learned Counsel for the Appellants and Respondent respectively on the application of the Appellants for stay on the operation and effect of the Order dated 28th July, 2025 passed by the City Civil Court, Mazgaon, Mumbai, they have consented for the setting aside of the said Order dated 28th July, 2025.

2. In view thereof, the following consent order is passed:

(i) Order dated 28th July, 2025 passed by the Judge, CR No.32, City Civil Court, at Mazgaon, Mumbai which is impugned in the above Commercial Appeals from order, is set aside.

(ii) Notice of Motion No.255 of 2025 in Commercial Suit No.349 of 2024 is restored to the file of the City Civil Court at Mazgaon, Mumbai and shall be heard afresh on its own merits and in accordance with law.

(iii) Notice of Motion No.256 of 2025 taken out by the Defendant in Commercial Suit No.349 of 2024 for discharge under Order XXXIX Rule 4 of the Code of Civil Procedure, which had been disposed off as infructuous

by the said Order dated 28th July, 2025, is restored to file of the City Civil Court at Mazgaon, Mumbai.

(iv) The rights and contentions of the parties are expressly kept open.

(v) Needless to state that we have not examined the merits of the Notice of Motion No.255 of 2025.

(vi) Commercial Appeal from Order No.26 of 2025 and Commercial Appeal from Order No.27 of 2025 are accordingly disposed of.

(vii) The Interim Applications filed in the above Commercial Appeals do not survive and are also disposed of.

[ADVAIT M. SETHNA, J.]

[R.I. CHAGLA, J.]