

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 3298 OF 2026

Rakesh Kavishanlal Agrawal ...Petitioner

Versus

Mumbai Municipal Corporation And Ors ...Respondents

Mr. Rohan Savant, a/w Mr. Sandeep Nirban and Ms. Pallak
Ranawat, i/b Darpan Jain, for the Petitioner.

Mr. D. R. Kawale, for Respondent Nos.1 & 2 BMC.

Miss. Gaurangi Patil, a/w Gaurav C. and V. Jain, for
Respondent No.4.

Mr. S. S. Bedekar a/w Mr. Swapnil Shanbhag, for Respondent
No.5.

CORAM: N. J. JAMADAR, J.

DATED: 24th MARCH, 2026

Oral Order:-

1. Heard the learned Counsel for the petitioner.
2. The challenge in this petition is to an order dated 13th February, 2026 passed by the learned Judge, City Civil Court, thereby directing that Notice of Motion No.3862/2025 be kept with NM/343/2026, NM/344/2026 and NM/345/2026, and draft Notices of Motion taken out by the plaintiff questioning the maintainability of the abovenumbered Notices of Motion. The learned Judge further directed the parties to note that after hearing of NM/343/2026, NM/344/2026 and NM/345/2026 and draft Notices of Motions, NM/3862/2025 will be decided.

3. The Notices of Motion Nos.3862/2025, 343/2026, 344/2026 and 345/2026 are taken out by the erstwhile partners of Respondent No.3 seeking setting aside of the Consent Decree passed in Suit No.1505/2009, dated 27th November, 2012. It seems that Rajendra Jain had preferred NM/336/2021 seeking to set aside the said consent decree dated 27th November, 2012 in Suit/1505/2009. The said Notice of Motion was partly allowed and the consent decree was modified by a judgment and order dated 16th March, 2021. The said order was challenged in WP/2915/2021 and the connected petitions. By a judgment and order dated 17th December, 2021, in WP/2915/2021, WP/2917/2021, WP(ST)/15626/2021 and WP(ST)/15627/2021 passed by this Court, the modification in the said Consent Decree made by the learned Judge, City Civil Court, was set aside.

4. It appears that after the rejection of the said Notice of Motion and the order passed by this Court in WP/2915/2021, WP/2917/2021, WP(ST)/15626/ 2021 and WP(ST)/15627/2021, the Notices of Motion have been filed by the erstwhile partners of Respondent No.3 seeking setting aside of the said Consent Terms on various grounds.

5. Undoubtedly, the said Notices of Motion would be required to be decided by the learned Judge, City Civil Court on their own merits and in accordance with law. However, the question that wrenches to the fore is, shall the execution be deferred till those Notices of Motion are decided.

6. The impugned direction of the learned Judge, City Civil Court, has an implication that the said Notices of Motion would be decided first and, thereafter, the main execution petition would be taken up.

7. Thus, it is clarified that the execution proceedings shall be decided in accordance with law, and the hearing and order in the execution proceedings shall not be deferred till the decision of the abovernumbered Notices of Motion.

8. Subject to aforesaid clarification, the petition stands disposed.

[N. J. JAMADAR, J.]