

Ajay

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

APPEAL FROM ORDER NO. 113 OF 2026
WITH
INTERIM APPLICATION NO. 682 OF 2026
IN
APPEAL FROM ORDER NO. 113 OF 2026

Sanjay Mahadev Rao Datar

.. Appellant

Versus

Swapna Deniz and Ors.

.. Respondents

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- Dr. Ranjit A. Thorat, Senior Advocate a/w. Ms. Pratibha Shelake and Mr. Gaurav Jain for Appellant.
- Mr. Aditya Lele a/w. Mr. Rutuparn Umesh Deo and Mr. Atul Mishra for Respondent No.1.
- Mr. Akshay Shinde, Advocate for Respondent No.2 – MHADA.

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CORAM : MILIND N. JADHAV, J.

DATE : APRIL 17, 2026.

P.C.:

1. Heard Dr. Thorat, learned Senior Advocate for Appellant; Mr. Lele, learned Advocate for Respondent No.1 and Mr. Shinde, learned Advocate for Respondent No.2 – MHADA.

2. Dr. Thorat and Mr. Lele have been good officers of the Court and after a hiatus in the present matter it appears that the same can get resolved. On 15.04.2026, after hearing the learned Advocates, the following order was passed:-

“1. Heard Mr. Thorat, learned Senior Advocate for Appellant; Mr. Deo, learned Advocate for Respondent No.1; Mr. Shinde,

learned Advocate for Respondent No.2 – MHADA and Mr. Vajale, learned Advocate for Respondent No.5 – BMC.

2. The present issue can be resolved. MHADA has already filed the Report that the extension jetting / protruding out to the extent of 2 centimeters which can be seen from the photographs which are placed before Court will be chipped by the Structural Engineer of the Appellant in the presence of the parties concerned and the MHADA officer who will oversee the said work. I don't see any reason as to why Respondents should object to this arrangement. Only issue is that the work should be carried out carefully without any nuisance or damage.

3. Today, Respondents' Advocate is busy in some other Court, the holding Advocate therefore persuades the Court to adjourn the matter. Respondents' Advocate shall take appropriate instructions failing which this Court shall pass the aforesaid order to be complied with in the presence and supervision of the MHADA officer.

4. List the matter on Board on 17th April 2026 for passing further order."

3. Today, though submissions are made across the bar by Mr Lele, I find it appropriate to ensure that the present *lis* before the Court needs to be ended by passing appropriate order and direction as contemplated by this Court in paragraph No.2 of the above order.

4. Mr. Shinde, learned Advocate represents Respondent No.2 – MHADA. He has taken instructions, perused the order dated 15.04.2026 and submits that the Designated Officer of MHADA will be appointed to over look the levelling of the 2 centimeter protrusion of the wall which was seen by the Court in the photographs which were placed before the Court.

5. Needless to state that both the parties shall also be entitled to remain present, if they wish to do so, but it is clarified that none of

the parties will try and direct the levelling of the 2 centimeter protrusion in alignment with the brick and masonry wall which is below the said liping for the purpose of levelling. If any instruments are required to be used by the Structural Engineer appointed by the MHADA under the supervision of the MHADA Officer, the same shall be allowed to be used for the purpose of chipping and levelling.

6. Dr. Thorat informs the Court after taking instructions that the chipping will be done as far as possible manually but in the event if any grinder is required for levelling, the same shall also be used without causing any damage. Name of the MHADA Officer shall be informed to the Structural Engineer who shall coordinate with both the parties on the designated date / dates and MHADA Officer shall remain present for the purpose of chipping / levelling work.

7. Needless to state that if scaffolding is to be erected, no objection will be raised by Respondents and Respondents shall cooperate for the purpose of erection of the scaffolding for the aforesaid purpose on their side / terrace / area.

8. The Court is requesting both the parties to ensure that no inconvenience is caused to either of the parties and this Court expects that both the parties will comply with this order in its true letter and spirit which in the opinion of the Court is in the interest of justice of both the parties.

9. If any official charges are required to be paid to the MHADA, the same shall be borne by Appellant. Mr. Shinde will apprise the MHADA Officer and the MHADA Officer can apprise his charges to the Appellant.

10. Appellant shall give one week advance intimation of the work to be carried out to all the parties so that there is no inconvenience caused to any of the parties and more specifically the private Respondent who is the immediate neighbour of the Appellant in occupation.

11. With the above directions, no further cause of action survives in the Appeal From Order. Hence, Appeal From Order is disposed.

12. In view of disposal of Appeal From Order, pending Interim Application is accordingly disposed.

13. Needless to state that in view of this order, the Suit is also directed to be disposed.

14. Plaintiff shall place a server copy of this order before the learned Trial Court and withdraw the Suit in accordance with law and the Trial Court shall permit the same.

[MILIND N. JADHAV, J.]