

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

**INTERIM APPLICATION NO. 1720 OF 2026
IN
APPEAL FROM ORDER NO. 455 OF 2022**

**Nilesh Navinchandra Shah and Ors. ... Applicants
(Orig. Appellants)**

IN THE MATTER BETWEEN

**Kantaben Navinchandra Shah and Ors. ... Appellants
(Orig. Plaintiffs)**

V/s.

Designated Officer, Executive Engineer

“D” Ward MCGM and Anr, ... Respondents

**Mr. Rohaan Cama a/w. Mr. Anosh Sequeira a/w. Ms. Sakina Electricwala i/b.
Avyaan Legal for the Applicants/Appellants**

CORAM : FARHAN P. DUBASH, J.

DATE : 27th FEBRUARY 2026

P.C. :

1. The present matter has been placed on the Production Board today pursuant to an urgent circulation that was granted last evening at about 6.30 p.m. The urgency in the matter emanates from a notice dated 24th February 2026 issued by the Respondent – Corporation under Section 488 of the Mumbai Municipal Corporation Act, 1888 (**MMC Act**), which gives notice to the Applicants that the noticed unauthorized structure will be

demolished today at/after 10.30 a.m.

2. In order to appreciate the controversy in this matter, it is necessary to set out some facts which are necessary to adjudicate the present dispute, and which are set out hereunder :-

(i) The Appeal from Order No.455 of 2022 challenges an order dated 7th April 2022 passed by the Trial Court in Notice of Motion preferred by the Applicants herein/Original Plaintiff. In the said Notice of Motion, the Applicants sought interim reliefs against the Respondent – Corporation from taking any steps pursuant to the notice issued under Section 351 of the MMC Act dated 29th January 2022 read with the subsequent order dated 22nd March 2022. After hearing the parties, by the order dated 7th April 2022, the Trial Court dismissed the Notice of Motion and refused the interim reliefs to the Original Plaintiffs who were thereafter constrained to prefer the present Appeal from Order.

(ii) On 5th May 2022, this Court passed an interim order in Interim Application (St.) No. 11349 of 2022 preferred by the Applicants in the Appeal from Order directing the Respondent – Corporation not to take any adverse action against the Appellant

till the next date of hearing. It appears that thereafter, the said matter did not come up for hearing until 2026.

(iii) In 2026, two orders came to be passed. The first of which was passed on 16th January 2026, whilst the other on 23rd January 2026. As a result, due to non-appearance on behalf of the Appellant, the Appeal from Order stood dismissed for want of prosecution and accordingly, all pending Interim Applications and interim orders of protection stood withdrawn. Immediately thereafter, it appears that the Respondent – Corporation issued the notice dated 24th February 2026 on the Appellants under Section 488 of the MMC Act stating that they would visit the premises and demolish the noticed unauthorized structure.

(iv) Mr. Rohaan Cama, learned Counsel who appears on behalf of the Applicants has taken me through the averments made in the present Interim Application wherein the reason for non-appearance of the Appellants/their Advocates has been set out. The same was because the Advocates who had been appearing for the Appellants had left the Law Firm which was initially representing the Appellants and commenced their independent practice and as a result thereof, the matter could not be

attended.

(v) This Court is satisfied with the said reason and accordingly, deems it fit to recall the order dated 23rd January 2026 and restore the captioned Appeal from Order along with the Interim Application no. 2090 of 2022 to the file of this Court by condoning the delay of one day in preferring the same.

(vi) Mr. Cama states that the notice of today's listing has been given by the Appellants to the Respondent – Corporation and also to the Intervener who had sought to apply therein. He tenders a copy of the e-mail dated 26th February 2026 sent at 8:46 p.m. to the Respondent – Corporation and the Advocate for the Intervener. He also invites my attention to a subsequent e-mail of today's date that was sent at 9:35 a.m. to the same parties. By these two e-mails, the said parties were put to notice of today's listing. However, despite such notice, none are present on their part.

(vii) A perusal of the e-mails reveal that the same has been sent to the Respondent – Corporation on the same e-mail ID that is mentioned in the notice dated 24th February 2026 issued by the

Respondent – Corporation. In addition, Mr. Cama states that a hard copy of the present Interim Application has also/is also been served this morning at around 11.00 a.m. The said e-mails are taken on record. Mr. Cama undertakes to file an Affidavit-of-Service to that effect in the course of the day.

(viii) Upon perusal of the record and in particular, the order that was passed in the matter as far back as on 5th May 2022, under which, the Appellants have enjoyed protection from demolition since the past four years, this Court deems it fit to restore and continue such interim protection granted by this Court vide order dated 5th May 2022.

3. A notice of this order shall immediately be given by the Appellants to the Respondent – Corporation.
4. All parties shall act on an authenticated copy of this order duly signed by the Private Secretary/Personal Assistant of this Court.
5. Place the matter for further consideration on 10th March 2026.

(FARHAN P. DUBASH, J.)

Jyoti Pawar

JYOTI
PRAKASH
PAWAR

Digitally signed
by JYOTI
PRAKASH
PAWAR
Date: 2026.02.27
15:22:02 +0530