

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

INTERIM APPLICATION NO. 2254 OF 2026

IN

FAMILY COURT APPEAL NO. 22 OF 2026

WITH

FAMILY COURT APPEAL NO. 22 OF 2026

Seema Hulji

.. Applicant

IN THE MATTER BETWEEN:

Seema Sharad Hulji

.. Appellant

Versus

Sharad Khachoji Hulji & Ors.

.. Respondents

...

Ms Disha Shetty for the Applicant.

Rina H. Pujana for Respondent No. 1.

Dr. Pallavi Divekar a/w Mr. Sandeep Wankhede i/by Divekar & Co., for Respondent No. 2.

Mr. Nitesh Menon, for Respondent No. 3.

Mr. Vishal Kanade a/w Ms Aneesha Munshi and Sonam Pandey i/by Divya Shah Associates, for Respondent No. 4.

...

**CORAM: BHARATI DANGRE &
MANJUSHA DESHPANDE, JJ.**

DATED : 17th APRIL, 2026

P.C:-

1. The Interim Application is taken out by the Appellant/wife in Family Court Appeal No. 22 of 2026 filed by her, challenging the common judgment passed by the Family Court on 11.02.2025, by which the Petition filed by her seeking dissolution of marriage under Section 13(1)(i-a)(i-b) of the Hindu Marriage Act, 1955, was dismissed. On the other hand, the counterclaim filed by the husband seeking divorce on the ground of cruelty was allowed, and by the said order, the

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marriage solemnized between the parties on 27.12.1990 is dissolved.

It is worth to note that the judgment, which is the subject matter of challenge in the Appeal, while dissolving the marriage, also held the wife entitled to receive monthly maintenance of Rs.75,000/- from the husband under Section 125 of the Cr.P.C., and a specific direction was issued to the following effect:

*“8. The petitioner-wife is entitled to continue residing in the shared matrimonial household situated at 10th Vrinda, 2nd Floor, 15 Poddar Road, Santacruz (West), Mumbai, under Section 17 of the Protection of Women from Domestic Violence Act, 2005, **until she is evicted in accordance with due process of law.***

*9. The respondent-husband and his family members are **restrained from dispossessing the petitioner-wife** from the said shared household or interfering with her peaceful residence therein, **except in accordance with due process of law.**”*

2. It is the contention of the Appellant that she continued to reside in the said flat after being estranged from her husband, and initially the flat was in the name of her in-laws, and she is now conscious of the fact that the same is inherited by Respondent No. 2, their daughter.

She is constrained to approach this Court to seek appropriate directions for execution of the Agreement for Permanent Alternate Accommodation (“PAAA”) with Respondent No. 4- Developer, as the flat is situated in Vrinda Co-operative Housing Society Ltd., which is undergoing redevelopment.

3. The Application state the background facts as to how and

since when she is in possession of the flat, though she has pleaded that she was unaware that, when her mother-in-law passed away, she had executed a will; but in any case, according to the Applicant, she would be rendered without any shelter if she is asked to vacate the house, and in any case, the question of her entitlement shall be determined when the said flat is redeveloped in the redevelopment scheme and, therefore, she seek permission for execution of the redevelopment agreement.

4. Learned counsel, Mr. Kanade, representing Respondent No.4- Developer inform the Court that Respondent No.3- Society comprise of 13 flats, and Flat No. 10 is in the occupation of the Applicant, but the share certificate of the said flat, as on date, stand in the name of Shailaja Shailesh Shah, i.e. Respondent No. 2. According to Mr. Kanade, 12 out of the 13 members have handed over vacant possession to the Developer, but the redevelopment work cannot progress unless and until Flat No. 10 is vacated.

5. The only solution, and an immediate one, is necessitated in view of the fact that the discord between the Applicant and her husband can in no way operate as stumbling block in the process of redevelopment of the Society, as 12 members have vacated their premises, and only on account of the Applicant not vacating her flat, the redevelopment project is being delayed. It is well settled that if a member fails to render cooperation, he or she may be evicted by seeking recourse to the appropriate remedy, and the flat can be handed over, by adopting due procedure, to the Society or the Developer for redevelopment. However, in the present case, a solution can be offered, as we are informed that Respondent No. 2, who is

the sister of Respondent No. 1, the husband of the Applicant, is already the holder of the share certificate in respect of the said flat, and the issue can be resolved by directing that the Developer shall execute the PAAA with her name being set out as the owner of the said flat, and the Applicant shall sign the PAAA, as being in occupation of the said flat.

In the wake of the decision of this Court in ***Vipul Fatehchand Shah Vs. Nav Samir CHS¹***, further reiterated in ***Kamal Chandiram Datwani Vs. Kripa Oneness Pvt. Ltd. & Ors.²***, to the effect that a dispute regarding ownership of a unit/flat can be sorted out through Civil Court, but as indicated in ***Vipul Fatehchand Shah***, the *inter se* dispute cannot become a cause for the development not progressing, and in such circumstances, upon an agreement being signed, it shall include a clause that the person who is in possession, shall be put back in possession upon the building being redeveloped, subject to such appropriate orders which would be obtained by the parties from a Civil Court or any other court competent to deal and pronounce upon the title of the premises.

However, we are informed that, as far as the corpus is concerned, that was already paid by the Developer to the mother of Respondent Nos. 1 and 2, and in these circumstances, the agreement shall specifically make mention of the same.

Mr. Kanade submit that an amount of Rs.8 lakhs towards hardship compensation, rental compensation, brokerage charges and shifting charges shall be made over to the Applicant, from whom the possession will be taken by the Developer.

1 Commercial Appeal (L) No. 25162 of 2023 decided on 06.10.2023.

2 Interim Application (L) No. 25685 of 2025 decided on 06.10.2025.

The understanding between Respondent No. 2 and the Applicant, placed before us is, that within a period of one week from today they will execute a PAAA, and thereafter, the Applicant shall vacate the premises within a period of two weeks from the date of signing of the PAAA.

This statement is accepted as an undertaking given to the Court.

6. The learned counsel for Respondent No. 1 has vehemently submitted that the Applicant was only residing in one room of the flat, but a reading of the judgment of the Family Court dated 11.02.2025, and in particular Clause – 8, do not give such an indication.

If at all, in any proceedings, Respondent Nos. 1 and 2 are able to establish that her permissible use was restricted only to one room, and that Respondent No. 1 is also entitled to share the rental compensation as he is without any shelter, then, upon an appropriate order being passed, the order directing entire rental compensation to be paid to the Applicant shall be suitably modified upon appropriate proceedings being initiated.

It is made clear that the PAAA shall specifically contain a clause regarding handing over possession of the flat upon redevelopment of the Society, subject to the outcome of the pending proceedings between the parties.

It is worth to note that the judgment dated 11.02.2025 is subject to challenge.

The Interim Application stand disposed off.

(MANJUSHA DESHPANDE, J.)

(BHARATI DANGRE, J.)