

Amberkar

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

APPEAL FROM ORDER (ST) NO. 7999 OF 2026
WITH
INTERIM APPLICATION (ST) NO. 8001 OF 2026
WITH
INTERIM APPLICATION NO. 2563 OF 2026

Dilip Kishanlal Jain

Appellant

.. (Org. Plaintiff)

Versus

Nish Developers Pvt Ltd & Ors.

Respondents

.. (Org Defendants)

.....

- Mr. Amogh Singh a/w Mr. Adita Upadhyay i/by Ms. Jeenal Upadhyay, Advocates for Appellant
- Mr. Sandeep Singh, Advocate for Respondent No. 1
- Mr. Sachin Vajale, Advocate for Respondent Nos. 2 to 4 - Corporation
- Mr. Siddharth Sonawane SE(B&F) F/S Ward present

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CORAM : MILIND N. JADHAV, J.

DATE : APRIL 9, 2026

P. C.:

1. Heard Mr. Amogh Singh, learned Advocate for Appellant; Mr. Sandeep Singh, learned Advocate for Respondent No. 1 - Developer and Mr. Vajale, learned Advocate for Respondent Nos. 2 to 4 - Corporation.

2. For the sake of convenience, the parties shall be referred to in terms of their status before the Trial Court.

3. Application under Section 44 of the Maharashtra Regional and Town Planning Act, 1966 (for short "**MRTP**") seeking regularization of

the construction undertaken by the Plaintiff has been filed and is pending with the concerned Competent Authority / Designated Officer of the Corporation. In the present case, it is an admitted position that subject flat was handed over to the Plaintiff by Respondent No. 1 - Developer as a bare shell flat and Plaintiff undertook interior construction of the same. By virtue of the impugned order, it is claimed that there is aberration committed by Plaintiff which is not in consonance with the sanctioned plan. Learned Trial Court has not found favour with the Plaintiff's case and rejected the *ad-interim* relief which can be seen from the order dated 11.02.2026 (appended at Exh "A", page Nos. 9-13 of the A.O.). The order dated 11.02.2026 is stayed.

4. Parties are directed to complete the pleadings in the said draft Notice of Motion. Reply is directed to be filed by Respondent No. 1 - Developer within a period of two weeks from today. Rejoinder, if any, shall be filed within two weeks thereafter. Though Mr. Singh has filed affidavit in reply in the present A.O., no purpose will be served by adjudicating the *lis* between the parties herein considering that Notice of Motion is pending before the Trial Court. Contentions taken by Mr. Sandeep Singh in the reply filed before this Court and reliance on the judgment of the Division Bench of this Court dated 19.07.2024 shall be considered by learned Trial Court. Equally contention of Plaintiff seeking parity with almost more than 200 similarly placed flats in the

concerned development undertaken by the said Developer wherein the Developer has issued his NOC to those flat purchasers will also be considered by the Trial Court.

5. All contentions of Plaintiff and Defendants including that of Corporation are expressly kept open without this Court giving its imprimatur on merits of the matter. Learned Trial Court shall not be influenced by any of the observations made herein or *ad-interim* order passed in draft Notice of Motion since the said observations are *prima facie* and shall decide the Notice of Motion after hearing all parties by passing a speaking reasoned order.

6. All contentions of the parties are expressly kept open.

7. It is directed that until the Notice of Motion is heard and decided by learned Trial Court, no coercive steps shall be taken against the subject suit flat of the Plaintiff by the Corporation in furtherance of the impugned order dated 11.02.2026 and in the event if the order passed in the said Notice of Motion is adverse, for a further period of four weeks thereafter to enable the Plaintiff to recourse of the law.

8. With the above directions, Appeal from Order is accordingly disposed. Pending Interim Applications are also disposed.

[MILIND N. JADHAV, J.]