PANCHAL

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION

BALAJI GOVINDRAO PANCHAL
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Date: 2026.10.16 12:28:27 +0530

WRIT PETITION NO. 2764 OF 2026

CCI Project Pvt. Ltd. ...Petitioner
Versus
Maharashtra Real Estate
Appellate Tribunal & Ors. ...Respondents

...

Mr. Soli Cooper, Senior Advocate a/w Mr. Yohann Cooper, Mr. Abir P. & Mr. Kartik Joshi i/by Wadia Ghandy & Co., for the Petitioner.

Mr. Aman Shukla i/by Mr. Anil D'souza, for Respondent Nos. 2, 13 & 26.

Mr. Anilkumar Patil i/by Mr. Digvijay A. Patil, for Respondent Nos. 3 to 11, 14 to 25, 27 to 34, 36 to 38 and 40.

Mr. Prashant Gawali a/w Mr. Kanhaiya Jha i/by Ms. Mahalakshmi Ganapathy, for the Respondent No. 12.

Mr. Aseem Naphade a/w Mr. Nishant Chothani, Mr. Nivit Srivastava, Mr. Yash Chheda & Ms. Bhavya R. Shah i/by Maniar Srivastava Associates, for Respondent Nos. 34 & 35.

...

CORAM : MAHESH CHANDRA TRIPATHI, CJ. &
ADVAIT M. SETHNA, J.

DATE : 14th OCTOBER, 2026.

P.C.:

1. We have heard the learned Counsel for the parties.

2. At the very outset, learned Counsel for the Respondents has raised an objection *qua* the maintainability of the instant proceeding and would submit that the Petitioner

has an efficacious alternate remedy of Appeal against the Order of the Maharashra Real Estate Appellate Tribunal, Mumbai dated 27th April 2026 (for short "Impugned Order") (page 313 Exh.'F' of the Petition). He would oppose grant of any interim reliefs to the Petitioner in case the Court is inclined to relegate the Petitioner to avail of such alternate remedy. In this context, he would place reliance on the decision of the Supreme Court in ***Mangal Rajendra Kamthe Vs. Tahsildar, Purandhar & Ors.***[1]. For ready reference, paragraph Nos. 5 and 6 of the aforesaid judgment are reproduced hereunder :-

> *"**5.** Orders of similar nature have engaged our attention where the high courts, while declining to entertain writ petitions under Article 226 of the Constitution on the ground of availability of an efficacious alternative remedy to the writ petitioner(s) concerned have, nonetheless, granted relief [either by staying operation of the order(s) under challenge or directing maintenance of status quo] to be operative for a limited period to enable such petitioner(s) to seek appropriate relief from the alternative forum.*
>
> ***6.** It is settled law that once the high court, upon application of mind, declines to entertain a writ petition in the exercise of its discretionary jurisdiction on the ground that an efficacious alternative remedy for grant of relief is available but such remedy has not been pursued by the petitioner, the proceedings do not survive and must draw to an end then and there; however, in such a circumstance when no final relief can effectively be granted on the petition, it is impermissible to pass an order in the nature of an interim relief [either by granting stay of operation of the order under challenge or by directing status quo to be*

1 2026 SCC OnLine SC 297.

> *maintained] till such time the aggrieved petitioner approaches the alternative forum. Such an order, as and when passed, would be in the teeth of a Constitution Bench decision of this Court in State of Orissa v. Madan Gopal Rungta."*

3. Mr. Cooper Ld. Senior Advocate for the Petitioner at the very outset, would appraise this Court about a detailed *ad-interim* Order dated 8th May 2026, being passed by the Coordinate Bench of this Court at the Admission stage of this proceeding.

4. Referring to the judgment of *Mangal Rajendra Kamthe (supra)*, learned Counsel for the Respondent has resisted the Petitioner's contention on *ad-interim* relief, stating that since the Court is relegating the matter to the Appellate Authority, no such *ad-interim* relief should be granted/extended.

5. We have considered the contentions of the learned Counsel for the parties at the Bar. From the record we find that the Petitioner has already instituted 39 separate Second Appeals through e-filing, numbers of which have not been generated. The same are likely to be taken up before the Appellate Court.

6. In the instant matter, we find that while granting

the *ad-interim* Order dated 8th May, 2026 the Co-ordinate Bench of this Court has proceeded to consider every aspect of the matter and granted *ad-interim* protection/relief to the Petitioner. In the given facts, we find that the *ad-interim* Order of this Court is still continued. Accordingly the decision *Mangal Rajendra Kamthe (supra)* relied upon by the learned Counsel for the Respondents, in the given factual complexion, may not apposite.

7. In our considered view, taking all of the above into consideration, substantial justice would be subserved, in the event the Petitioner files the statutory Appeal within a period of one week from the date of uploading of this order, upon complying with all requisite filing formalities, including obtaining number of the Appeals, along with the Stay Application. We would request the Appellate Court to consider the same within three weeks' time upon the Court taking cognizance of the same, considering the urgency in the proceedings and continuance of the ad interim order in favour of the Petitioner.

8. The *ad-interim* Order dated 8th May, 2026 granted by the Co-ordinate Bench of this Court shall continue to operate

till 20th November, 2026.

9. We clarify that parties concerned with these proceedings are at liberty to press the reliefs before the Appellate Authority independently without being influenced by the *prima facie* observations made by the Co-ordinate Bench of this Court while passing the *ad-interim* Order dated 8th May, 2026.

10. With the aforesaid directions, Writ Petition is Disposed Of.

[ADVAIT M. SETHNA, J.] **[CHIEF JUSTICE]**