

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

**INTERIM APPLICATION NO. 1696 OF 2025
IN
COUNTER CLAIM NO. 26 OF 2007
IN
SUIT NO. 2956 OF 2000**

**Mahendra S. Dalal and Anr. ... Applicants/Defendant
Nos. 1 and 8**

IN THE MATTER BETWEEN:

Sohag Bipin Dalal and Ors. ... Plaintiffs

V/s.

Mahendra Shantilal Dalal and Ors. ... Defendants

**WITH
INTERIM APPLICATION (L) NO. 21205 OF 2024
IN
SUIT NO. 2956 OF 2000**

**Sohag Bipin Dalal ... Applicant/Plaintiff
No. 1A**

IN THE MATTER BETWEEN:

Sohag Bipin Dalal and Ors. ... Plaintiffs

V/s.

Mahendra Shantilal Dalal and Ors. ... Defendants

Mr. Sharan Jagtiani, Senior Advocate a/w. Mr. Aseem Naphade a/w. Ms. Kausar Banatwala a/w. Ms. Sneha Mahawar i/b. Tushar Goradia for

Respondent in IA/1696/2025 and for Original Plaintiff/Applicant in IAL/21205/2024

Mr. Chetan Kapadia, Senior Advocate a/w. Mr. Sunny Shah a/w. Viral Dilip Shukla and Rudra M. Dani i/b. Shukla & Associates for the Applicants in IA/1696/2025 and for Plaintiff in Counter Claim and for Defendant nos. 1 and 8 in Suit

CORAM : FARHAN P. DUBASH, J.

DATE : 25th FEBRUARY 2026

COMMON ORDER :

1. The present two Interim Applications:

1.1 By this common order, this Court proposes to dispose of the present two Interim Applications. The first Interim Application has been taken out by Defendant nos. 1 and 8 (hereinafter referred to as “***the said Defendants***”), whereas the second Interim Application has been taken out by Plaintiff No. 1A (hereinafter referred to as “***the said Plaintiff***”).

1.2 The subject matter of both the Interim Applications pertains to Flat No. 301, situated in a building known as “*Mount Pleasant*”, of Palmera Co-operative Housing Society Ltd. (hereinafter referred to as “***the said Society***”), located at 16, Narayan Dabholkar Marg, Mumbai – 400006

(hereinafter referred to as “*the said Flat*”). It is an admitted position between the parties that the said Flat originally stood in the joint names of late Shantilal Dalal (hereinafter referred to as “*late Shantilal*”) and his wife, late Sitaben Dalal (hereinafter referred to as “*late Sitaben*”). Late Shantilal and late Sitaben were the parents of the original Plaintiff and Defendant no. 1. The original Plaintiff has since deceased, and the present Plaintiff nos. 1A to 1D, being his widow and three children respectively, have been brought on record in his place. Defendant no. 8 is the wife of Defendant no. 1. Defendant nos. 2 to 7 are the six sisters of the original Plaintiff and Defendant no. 1. Thus, the original Plaintiff, Defendant no. 1, and Defendant nos. 2 to 7 constitute the eight children of late Shantilal and late Sitaben.

1.3 Late Shantilal passed away on 11th March 1979, while late Sitaben passed away on 23rd August 1999. The Plaintiffs contend that both late Shantilal and late Sitaben died intestate. The said Defendants, however, contend that late Shantilal died leaving behind his Last Will and Testament dated 1st March 1979, and that late Sitaben died leaving behind her Last Will and Testament dated 22nd August 1992. Under the said Will of late Shantilal, the said Flat is stated to have been bequeathed jointly in favour of late Sitaben and Defendant no. 1. Under the said Will of late Sitaben, she is

stated to have bequeathed the said Flat equally in favour of the said Defendants. On the basis of the said two Wills, the said Defendants claim exclusive right, title and interest in respect of the said Flat. Accordingly, they have instituted Testamentary Petition No. 271 of 2017 and Testamentary Petition No. 653 of 2001, seeking probate of the respective Wills. Pursuant to caveats filed by the original Plaintiff in both the said Testamentary Petitions, the same have been converted into Testamentary Suit No. 22 of 2018 and Testamentary Suit No. 44 of 2005 respectively.

1.4 On the other hand, the Plaintiffs, asserting that both late Shantilal and late Sitaben died intestate, have instituted Suit No. 2956 of 2000, seeking administration of the estate of late Shantilal and late Sitaben on that basis. In the said Suit, at the ad-interim/interim stage, in Notice of Motion No. 2156 of 2000, certain orders came to be passed by this Court, *inter alia* restraining Defendant no. 1 from in any manner transferring, selling, disposing of, encumbering, alienating, parting with possession of, and/or otherwise dealing with any of the properties forming part of the estate of late Shantilal and late Sitaben, which include the said Flat.

1.5 It is stated that the building in which the said Flat is situated is

presently in the process of redevelopment. In view of this subsequent development, the present two Interim Applications have been taken out by the parties. Both parties seek directions from this Court in relation to the redevelopment of the Mount Pleasant building, which includes the said Flat. The present Interim Applications have been preferred in view of the earlier orders passed by this Court, particularly the order dated 20th April 2001, whereby Defendant no. 1 has been restrained from parting with possession of the said Flat.

1.6 By the present Interim Applications, both parties seek orders permitting the execution of a Permanent Alternate Accommodation Agreement (hereinafter referred to as “**PAAA**”) with the Developer in respect of the said Flat, together with consequential reliefs in relation to transit rent, corpus amount, and allocation of rooms in the redeveloped premises. The Plaintiffs seek, *inter alia*, the appointment of an Officer of this Court as an Administrator for the purpose of executing the said agreement and further seek that the amounts payable towards transit rent and corpus be deposited in this Court. The said Defendants, on the other hand, seek permission to execute the said PAAA themselves and further seek entitlement to receive and retain the transit rent and corpus amounts payable by the Developer.

However, both Interim Applications acknowledge that the Plaintiffs are in exclusive use and occupation of at least one bedroom in the said Flat, and that accordingly, one bedroom in the redeveloped premises is required to be allotted exclusively to them. The Plaintiffs further contend that, in addition to the said bedroom, they are also in joint possession of other room/s, which have allegedly been illegally encroached upon by the said Defendants. The Plaintiffs also assert joint use and occupation of the common areas of the said Flat.

1.7 In the circumstances, the principal issue that arises for consideration in the present Interim Applications pertains to the directions that are required to be issued by this Court in relation to the said Flat, having regard to the earlier orders passed in the matter and in furtherance of the redevelopment of the Mount Pleasant building. Accordingly, by this common order, this Court proposes to deal with the respective contentions raised by the parties in the present Interim Applications. For the sake of convenience, the parties shall be referred to and described in the same manner as set out in the cause-title of the plaint.

2. Material facts and events:

In order to properly appreciate the rival contentions advanced by the parties in the present two Interim Applications, and to adjudicate upon the dispute that arises for consideration before this Court, it would be appropriate to first take note of the following:

(i) Late Shantilal and late Sitaben were the owners of the said Flat together with share certificates bearing nos. 171 to 175 issued by the said Society. There appears to be some discrepancy between the parties regarding the exact area of the said Flat. While the Plaintiffs contend that the area of the said Flat is approximately 1900 square feet, the said Defendants contend that the area is approximately 1600 square feet. However, for the purposes of the present common order, the precise area of the said Flat is not material and has no bearing on the outcome of the present Interim Applications. It further appears that during the lifetime of late Shantilal and late Sitaben, the names of the said Defendants came to be recorded as nominees in the records of the said Society in respect of the said Flat.

(ii) On 11th March 1979, late Shantilal expired. According to the said Defendants, he died leaving behind his Last Will and Testament dated 1st March 1979, under which the said Flat is stated to have been bequeathed jointly in favour of late Sitaben and Defendant no. 1. Testamentary Petition No. 271 of 2017 filed by the said Defendants seeking probate of the said Will has since been converted into Testamentary Suit No. 22 of 2018, which is presently pending adjudication before this Court.

(iii) On 23rd August 1999, late Sitaben expired. According to the said Defendants, she died leaving behind her Last Will and Testament dated 22nd August 1992, under which the said Flat is stated to have been bequeathed equally in favour of the said Defendants, who were also appointed as the executors of her Will. Testamentary Petition No. 653 of 2001 filed by them seeking probate of the said Will has since been converted into Testamentary Suit No. 44 of 2005, which is presently pending adjudication before this Court.

(iv) It appears that pursuant to the demise of late

Shantilal and late Sitaben, on 4th October 2003, the said Society transferred the membership and the share certificates in respect of the said Flat in favour of the said Defendants on the basis of the nomination recorded in their favour. Since then, the maintenance bills in respect of the said Flat have been issued in their names, and they have been making the requisite payments to the said Society.

(v) On 6th June 2000, the original Plaintiff instituted the captioned Suit No. 2956 of 2000 before this Court contending that late Shantilal and late Sitaben had died intestate. On that basis, the original Plaintiff claimed an undivided 1/8th share in their estate and sought administration thereof, as well as partition by metes and bounds. The original Plaintiff also sought certain ad-interim and interim reliefs by taking out Notice of Motion No. 2156 of 2000.

(vi) By an ad-interim order dated 31st August 2000 passed in the said Notice of Motion, this Court recorded the statement of Defendant no. 1, who admitted that the original

Plaintiff was in sole occupation of one bedroom in the said Flat and was also using the common facilities therein. Defendant no. 1 further stated that such occupation and use would not be obstructed by him.

(vii) By a subsequent order dated 20th April 2001, the aforesaid ad-interim order was confirmed, and the said Notice of Motion came to be disposed of in terms of prayer clause (c) thereof, *inter alia* restraining Defendant no. 1 from parting with possession of the said Flat.

(viii) On 7th May 2018, the original Plaintiff passed away. Pursuant thereto, his heirs and legal representatives have since been brought on record as Plaintiff nos. 1A to 1D in the present Suit.

(ix) In January 2023, the said Society is stated to have resolved to undertake redevelopment of the Mount Pleasant building, and resolutions to that effect were passed. Consequently, the possession of the said Flat would be required to be handed over for the purposes of redevelopment. In these

circumstances, the said Defendants initially filed Interim Application (L) No. 30698 of 2023, *inter alia* seeking certain limited reliefs. The said Interim Application was thereafter withdrawn with liberty to file a comprehensive Interim Application by order dated 8th December 2023, which has resulted in the filing of the present Interim Application No. 1696 of 2025 by the said Defendants.

(x) In Interim Application No. 1696 of 2025, the said Defendants seek a direction that the Plaintiffs, as well as the said Defendants, vacate the said Flat and hand over vacant and peaceful possession thereof to the Developer and/or the said Society for the purposes of redevelopment, as and when called upon to do so. They also seek permission to execute the necessary PAAA at the time of handing over possession of the said Flat, which they fairly state shall be subject to the outcome of the proceedings pending before this Court. However, they further seek permission to retain the compensation payable by the Developer upon handing over possession of the said Flat, including transit rent and corpus.

(xi) On the other hand, in Interim Application (L) No. 21205 of 2025 filed by Plaintiff no. 1A, a prayer is made that all documentation in connection with the redevelopment of the said Flat, including the PAAA, be executed by an Officer of this Court who may be appointed as an Administrator, on behalf of all the parties to the Suit, and that all amounts received from the Developer be deposited with this Court and made subject to the outcome of the proceedings.

(xii) The said Flat is stated to comprise four attached bedrooms, a living room, a store room, and a kitchen. As of date, the Plaintiffs are stated to be in sole occupation of one bedroom, while the said Defendants are stated to be in occupation of the remaining three bedrooms. The Plaintiffs contend that the said Defendants were originally in occupation of only one bedroom and have since, illegally encroached upon the other two bedrooms, and are therefore, presently in possession of three bedrooms. This contention is denied by the said Defendants. The remaining portions of the said Flat are stated to constitute common areas, and both parties claim to be in joint possession

thereof.

(xiii) As of date, the said Defendants permanently reside in the said Flat. The Plaintiffs, on the other hand, are citizens of the United States of America (USA) and presently reside there. Consequently, they do not permanently reside in the said Flat. However, the Plaintiffs assert that until about 2018, Plaintiff no. 1A was permanently residing in the said Flat and only thereafter relocated to the USA with her children. The Plaintiffs further state that whenever they visit Mumbai, they reside in the said Flat.

3. Submissions of the said Defendants:

3.1 Mr. Chetan Kapadia, learned Senior Counsel appearing on behalf of the said Defendants, submits that the said Flat constitutes the sole place of residence of his clients, who permanently reside therein. He submits that at all material times, and at least since the year 2000, his clients have been bearing and paying all outgoings in respect of the said Flat, including day-to-day maintenance expenses, society charges, electricity bills, telephone bills and other incidental outgoings. In contrast, he contends that the Plaintiffs

are citizens and permanent residents of the United States of America (USA) and do not permanently reside in the said Flat. He further submits that the Plaintiffs have never contributed towards any of the outgoings in respect of the said Flat and, therefore, according to him, only his clients ought to be entitled to the benefits arising from the redevelopment of the said Flat.

3.2 Mr. Kapadia further submits that the said Society has recognized his clients as the members in respect of the said Flat, having regard to the nomination made in their favour by late Shantilal and late Sitaben. He submits that under the Last Wills and Testaments of late Shantilal and late Sitaben, the said Flat has been bequeathed exclusively in favour of his clients and not in favour of the Plaintiffs. On this basis as well, he submits that the benefits arising from the redevelopment ought to be conferred solely upon his clients. He further contends that since the said Defendants would be displaced and would suffer hardship on account of the redevelopment, they alone ought to be entitled to the compensation payable by the Developer.

3.3 On the aforesaid basis, Mr. Kapadia submits that the transit rent payable by the Developer ought to be received exclusively by the said Defendants, to the exclusion of the Plaintiffs. He further submits that it

would be just and proper that the said Defendants be permitted to execute the PAAA with the Developer and/or the said Society in respect of the said Flat. He states that upon completion of the redevelopment of the Mount Pleasant building, his clients would make available one bedroom in the redeveloped Flat for the sole and exclusive use of the Plaintiffs, subject to the outcome of the proceedings pending before this Court. He therefore seeks modification of the earlier order dated 20th April 2001, whereby Defendant no. 1 has been restrained from parting with and/or surrendering possession of the said Flat, pending the hearing and final disposal of the captioned Suit.

4. Submissions of the said Plaintiff:

4.1 *Per contra*, Mr. Sharan Jagtiani, learned Senior Counsel appearing on behalf of the Plaintiffs, submits that the said Defendants cannot assert any rights in respect of the said Flat on the basis of the alleged Last Wills and Testaments of late Shantilal and late Sitaben unless and until probate thereof is granted by this Court. He further submits that the said Defendants cannot claim any equities merely on the ground that their names are reflected as members of the said Society pursuant to the nomination allegedly executed in their favour by late Shantilal and late Sitaben.

According to him, it is well settled in law that a nomination does not create any right, title or interest in the property. Unless and until the exclusive title of the said Defendants to the said Flat is duly established, the Plaintiffs, being the legal heirs of late Shantilal and late Sitaben, are equally entitled to claim a share in their estate, which includes the said Flat.

4.2 Mr. Jagtiani further invites the attention of this Court to a complaint filed by the Plaintiffs against the said Society challenging the entry of the names of the said Defendants, as members in respect of the said Flat on the basis of the alleged nomination made by late Shantilal and late Sitaben. He submits that the said complaint is presently pending before the competent authority. He submits that although the Plaintiffs do not oppose the redevelopment of the Mount Pleasant building, the necessary documentation in connection therewith ought not to be executed solely by the said Defendants. Instead, he submits that an Officer of this Court ought to be appointed as an Administrator to execute and register the requisite documentation, including the PAAA, on behalf of all the parties to the Suit. He further submits that all amounts receivable from the Developer ought to be deposited in this Court and be made subject to the outcome of the pending proceedings.

4.3 Mr. Jagtiani also draws the attention of this Court to the earlier orders passed in the present Suit, including the orders dated 31st August 2000 and 20th April 2001, wherein the possession of the Plaintiffs in respect of certain portions of the said Flat has been expressly recognized and protected. He further submits that by the said order dated 20th April 2001, Defendant no. 1 has been restrained from parting with possession of the said Flat, pending the hearing and final disposal of the Suit. According to him, certain portions of the said Flat, including the room previously occupied by late Sitaben prior to her demise and another area described as the *children's room* in the sketch annexed as *Exhibit 4* to Interim Application (L) No. 21205 of 2025 have been wrongfully encroached upon by the said Defendants for their own personal use and benefit, taking advantage of the fact that the Plaintiffs do not permanently reside in the said Flat. In these circumstances, he submits that the said Defendants cannot claim any equities in respect of such portions of the said Flat. He further adds that considering the strained relationship between the parties, the amount of transit rent ought to be appropriated between them in proportion to the area occupied by each of them.

4.4 Mr. Jagtiani further submits that until the demise of the original

Plaintiff on 7th May 2018, the said Plaintiff had been residing in the said Flat, while their children were residing in the USA. According to him, it was only thereafter that the said Plaintiff relocated to the USA to reside permanently with her children. He, however, submits that the Plaintiffs have continued to visit Mumbai regularly over the years and that during such visits they have always stayed in the said Flat, which constitutes their only residence in Mumbai. He therefore submits that the Plaintiffs are also entitled to the benefits arising from the redevelopment of the said Flat and that the said Defendants cannot claim any exclusive entitlement thereto.

5. Analysis, Reasons and Findings:

5.1 I have heard Mr. Kapadia and Mr. Jagtiani, learned Senior Counsel appearing for the respective parties at length and have also perused the material placed on record. The present Interim Applications arise in the context of the proposed redevelopment of the Mount Pleasant building, in which the said Flat is situated. The redevelopment would necessarily require the existing occupants to vacate the said Flat and hand over possession to the Developer and/or the said Society. The limited question that therefore arises for consideration at this stage is what interim arrangement ought to be made

between the parties pending the final adjudication of the disputes inter-sé between them.

5.2 At the outset, it must be noted that the rival claims of the parties to the ownership and title of the said Flat are presently the subject matter of pending proceedings before this Court, namely the captioned Suit as well as the Testamentary Suits arising from the probate petitions filed by the said Defendants. The Plaintiffs contend that late Shantilal and late Sitaben died intestate, whereas the said Defendants rely upon the alleged Last Wills and Testaments said to have been executed by them. These questions necessarily involve disputed questions of fact and law which can only be finally determined after trial in the said proceedings. At this interlocutory stage, this Court cannot record any conclusive findings in that regard.

5.3 Similarly, there are serious disputes between the parties regarding the exact nature and extent of their respective possession in the said Flat. The Plaintiffs contend that they are in joint possession of certain additional rooms apart from the bedroom admittedly occupied by them, whereas the said Defendants deny these allegations and assert that the Plaintiffs are in possession of only one bedroom. These issues also involve

disputed questions of fact which cannot be conclusively determined at the present interim stage and must be left open to be decided in the appropriate proceedings.

5.4 However, certain aspects of the matter are not in dispute. It is admitted that the Plaintiffs are presently in exclusive use and occupation of only one bedroom in the said Flat. It is also not in dispute that the said Defendants are permanently residing in the said Flat and that the Plaintiffs are presently residing in the United States of America, although they state that they visit Mumbai from time to time and stay in the said Flat during such visits.

5.5 The purpose of transit rent and relocation / hardship / transportation and/or other similar one-time allowance that is paid by a Developer in the context of redevelopment is well understood. Such payment is intended to compensate the occupants who are required to vacate their existing premises and secure temporary accommodation elsewhere during the redevelopment period. The underlying object of such payment is to alleviate the hardship that would be caused to the party who is actually residing in the premises and would be displaced on account of

redevelopment.

5.6 In the present case, it is evident that the said Defendants are the persons who are permanently residing in the said Flat and who would necessarily be displaced upon the redevelopment of the Mount Pleasant building. The Plaintiffs, on the other hand, are admittedly residing outside India and do not presently reside in the said Flat on a permanent basis. In these circumstances, the hardship arising from displacement during the redevelopment process would primarily be suffered by the said Defendants.

5.7 The suggestion that the amount of transit rent ought to be divided between the parties also does not appear to be workable in the facts of the present case. In most redevelopment projects, the transit rent is calibrated having regard to the existing residential unit and is intended to enable the occupants to secure a reasonably comparable temporary accommodation during the redevelopment period, in or around the locality of the redevelopment. If the transit rent were to be split between the parties, the amount so received by each party would be insufficient to secure independent alternate accommodation. Such an arrangement would therefore defeat the very purpose for which transit rent is provided.

5.8 In the circumstances, this Court is of the view that the balance of convenience lies in permitting the said Defendants to receive the transit rent and secure suitable temporary alternate accommodation. At the same time, it would be necessary to ensure that the admitted possessory rights of the Plaintiffs in respect of one bedroom are adequately protected during the redevelopment period.

5.9 Accordingly, an arrangement whereby the said Defendants secure temporary alternate accommodation and reserve one bedroom exclusively for the Plaintiffs therein would substantially preserve the status quo that presently exists in the said Flat, where the Plaintiffs admittedly occupy one bedroom while the remaining portions are used by the said Defendants. Such an arrangement would adequately safeguard the interests of the Plaintiffs without causing undue prejudice to the said Defendants who are presently residing in the said Flat.

5.10 Insofar as the corpus amount payable by the Developer is concerned, the said amount is ordinarily intended to be utilised after completion of the redevelopment and does not require immediate disbursement for the purpose of securing temporary accommodation. Since

the entitlement of the parties to the said amount would ultimately depend upon the final adjudication of the disputes pending between them, I am of the view that the corpus amount ought to be deposited in this Court so that the same can be appropriately dealt with at a later stage.

5.11 Insofar as the execution of the PAAA is concerned, the said Defendants presently stand recorded as members of the said Society and their names appear in the share certificates in respect of the said Flat. Moreover, the redevelopment process cannot be unnecessarily stalled on account of the inter-sé disputes between the parties. In these circumstances, there appears to be no impediment in permitting the said Defendants to execute the PAAA with the Developer and the said Society, subject to the express condition that such execution shall not create any equities or confer any independent rights upon them and shall remain subject to the outcome of the pending proceedings.

5.12 It is also relevant to note that under the alleged Wills relied upon by the said Defendants, the said Flat is stated to have been bequeathed in their favour. If they ultimately succeed in the testamentary proceedings, they would be entitled to the said Flat. Conversely, even if the Plaintiffs were

to succeed in establishing that the deceased (late Shantilal and late Sitaben) died intestate, the Plaintiffs would only be entitled to an undivided share in the estate, along with the other legal heirs. In either scenario, the interim arrangement proposed herein does not prejudice the substantive rights of the parties, which remain to be adjudicated in the pending proceedings.

5.13 In view of the above circumstances, this Court is satisfied that a prima facie case and balance of convenience exist in favour of permitting the said Defendants to execute the redevelopment documentation and receive the transit rent, while simultaneously safeguarding the Plaintiffs' admitted possessory interest in one bedroom.

5.14 The order and directions that follow are therefore intended to ensure that the redevelopment of the Mount Pleasant building proceeds without obstruction while simultaneously preserving the respective rights and contentions of the parties until the disputes between them are finally adjudicated.

6. Operative Order:

Considering the aforesaid, the present two Interim Applications are disposed of in terms of the following order:

:: ORDER ::

A. Permanent Alternate Accommodation Agreement

- A1. Defendant nos. 1 and 8 are hereby permitted to enter into a permanent alternate accommodation agreement with the Developer and the Palmera Co-operative Housing Society Ltd. in furtherance of redevelopment of the Mount Pleasant building in which the said Flat viz. Flat no. 301 is situated.
- A2. It is however made clear that the execution of the permanent alternate accommodation agreement by Defendant nos. 1 and 8 shall not create any absolute and/or title to the redeveloped flat in their favour and the same shall be subject to the outcome of the captioned suit and the testamentary proceedings that are pending between the parties before this Court.
- A3. Both parties shall co-operate with the Palmera Co-operative Housing Society Ltd and Developer and vacate the said Flat, as and when called upon to do so.

B. Transit Rent:

- B1. Defendant nos. 1 and 8 shall be entitled to receive the amount of transit rent from the Developer against execution of the permanent alternate accommodation agreement in respect of the said Flat.
- B2. Defendant nos. 1 and 8 shall also be entitled to receive the amount of relocation/hardship/transportation and/or other similar one-time allowance that may be paid by the Developer against execution of the permanent alternate accommodation agreement in respect of the said Flat.

C. Temporary Alternate Accommodation & the Plaintiffs' bedroom

- C1. Pending the redevelopment of the Mount Pleasant Building, Defendant nos. 1 and 8 shall provide for and reserve one bedroom exclusively for the Plaintiffs in the temporary alternate accommodation that is availed by them at any other location. However, the Plaintiffs shall not have any say whatsoever in choosing the said temporary alternate accommodation that may be availed by Defendant nos. 1 and 8 including *inter alia*, the area, locality or building in which such accommodation is taken.
- C2. However, the first right to choose the said bedroom in the temporary

alternate accommodation shall be given to the Plaintiffs (*Plaintiffs' bedroom*).

- C3. To that end, after the temporary alternate accommodation is identified/shortlisted by Defendant nos. 1 and 8, they/their Advocates shall address a suitable notice in writing, to the Plaintiffs and their Advocates giving full details, address and location thereof.
- C4. Upon receipt of such written notice, the Plaintiffs and their Advocates shall have the right to inspect such shortlisted accommodation and take photographs/video of the same. This site visit shall be facilitated by Defendant nos. 1 and 8 and their Advocates.
- C5. Within 10 days of the receipt of such written notice, the Plaintiffs or their Advocates shall respond in writing, exercising the said right and choose the Plaintiffs' bedroom in the shortlisted accommodation.
- C6. If the Plaintiffs fail to exercise the said right within the above-stipulated time period of 10 days, the bedroom of the largest size/area shall be reserved by Defendant nos. 1 and 8 as the Plaintiffs' bedroom.
- C7. The Plaintiffs shall be permitted to keep Plaintiffs' bedroom under their lock and key. Defendant nos. 1 and 8 shall also forthwith provide a set of keys to the main door of the said temporary alternate

accommodation to the Plaintiffs.

- C8. The Plaintiffs will have free and unrestricted use and access to the said temporary alternate accommodation and in particular, the Plaintiffs' bedroom.
- C9. Defendant nos. 1 and 8 shall be entitled to use the other bedrooms in the said temporary alternate accommodation.
- C10. However, both parties will be entitled to jointly use the other common areas in the said temporary alternate accommodation such as the kitchen, living room, dining room, and other areas, save and except the bedrooms and any attached bathrooms/balconies thereto which shall be used by the parties, as provided above.
- C11. The Plaintiffs shall not be required to pay any amount towards license fees or otherwise to Defendant nos. 1 and 8 towards this temporary alternate accommodation and the Plaintiffs' bedroom.

D. Corpus:

- D1. Within seven days of receipt of the amount of corpus from the Developer, Defendant nos.1 and 8 shall forthwith deposit the entire said amount with the Prothonotary and Senior Master of this Court with notice to the Plaintiffs and/or their attorney.

- D2. Both parties shall be at liberty to thereafter apply to this Court for suitable reliefs in respect of the said amount of corpus.
- D3. All rights and contentions of both parties in that regard are expressly kept open.
- E. A copy of the leave and license or other agreement that may be entered into by Defendant nos. 1 and 8 in respect of the said temporary alternate accommodation shall be provided by them to the Plaintiffs and/or their Advocates within 15 days of execution/renewal thereof.
- F. Notwithstanding the directions contained in this order, the Plaintiffs will be at liberty to enforce their rights in the said Flat against the Developer and/or the Palmera Co-operative Housing Society Ltd, in the event they are of the view that the actions/inactions of Defendant nos.1 and 8 during the redevelopment of the Mount Pleasant building are detrimental to their interests in the said Flat.
- G. Any offer/proposal by Defendant nos.1 and 8 to purchase any additional area from the Developer will be entirely to their account and the same will not be binding on the Plaintiffs. It is also clarified that if Defendant nos. 1 and 8 purchase any additional area from the

Developer in the redeveloped building, they will not be entitled to claim any equities in the said Flat, on account thereof.

- H. Liberty is given to both parties to apply to this Court for appropriate directions regarding the taking of possession of the redeveloped flat, as and when the same is ready.
- I. Within a period of 7 days from the receipt of any communication from the Developer and/or the Palmera Co-operative Housing Society Ltd which pertains to the redevelopment of the said Flat, Defendant nos. 1 and 8 and/or their Advocates shall forward the same to the Plaintiffs and/or their Attorneys and intimate him/them about the same so that the Plaintiff is kept abreast and informed of all events that transpire during the course of redevelopment of the Mount Pleasant building.
- J. Both Interim Applications shall stand disposed of in terms of the above order with no order as to costs.
- K. At this time, after the operative part of the order was dictated in open court, Mr. Jagtiani requests for a stay of part of this order which deals with the payment of transit rent exclusively to Defendant nos. 1 and 8. However, considering the above detailed order which has been passed, in which the rights of the Plaintiffs have been suitably addressed and

protected, the request for stay is declined.

(FARHAN P DUBASH, J.)

Jyoti Pawar
Ajay Jadhav

JYOTI
PRAKASH
PAWAR

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by JYOTI
PRAKASH
PAWAR
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