

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
INTERIM APPLICATION NO. 1970 OF 2025
IN
COMMERCIAL SUIT NO. 272 OF 2022

Mehul Jayantilal Shah ...Applicant

In The Matter Between

Unique Shanti Developers LLP ...Respondent /
Org. Plaintiff

Versus

Jai Temple View Cooperative Housing Society Ltd ...Defendants
& Ors

Mr. Gauraj Shah, a/w Shlok B, i/b Tejas Shah, for the Applicant.

**Mr. Mayur Khandeparkar, a/w Revati Desai, i/b Hetal Vithlani,
for Intervenor-Priti Shah.**

Mr. Deepak Bhalerao, 2nd Asst. to Court Receiver.

CORAM : SOMASEKHAR SUNDARESAN, J.

DATE : March 27, 2026

ORDER :

1. Interim Application No.1970 of 2025 is for permitting intervention of Mr. Mehul Jayantilal Shah. By consensus, the Application is allowed by permitting him to be made a party to the Suit as the newly added Defendant No.5.

2. Interim Application No.1970 of 2025 is ***disposed of.***

3. After the matter was argued for some time, the parties took time to come back with a draft minutes of order in terms of which the Suit itself could be disposed of insofar as it relates to original Flat no. 404 in lieu of which, the new flats allotted are flat Nos.303 and 403 of 475 square feet each in 'A' wing of the redeveloped building. The draft minutes of order tended across the bar by consensus of the parties, which is extracted below:-

"DRAFT MINUTES OF THE ORDER"

1. The Applicant has preferred the captioned Interim Application seeking (i) direction to the Plaintiff to implead the Applicant as Defendant No. 5 to the captioned Suit; (ii) direction to the Plaintiff to disclose the Flat No. and area of Flat to be allocated to the Applicant; and (iii) direction to the Plaintiff to enter, execute and register Permanent Alternate Accommodation Agreement for Flat to be allocated to the Applicant.

2. By its Affidavit dated 9th January 2026, the Plaintiff has disclosed the New Flat Nos, and area of New Flats (viz. Flat No. 303 adm. 475 sq. ft. carpet area on the 3rd Floor and Flat No. 403 adm. 475 sq. ft. carpet area on the 4th Floor ("New Flats") to be allocated in lieu of the Old Flat standing in the name of Late Jayantilal Keshavlal Shah. Therefore, prayer clause (b) to the Interim Application has been rendered infructuous.

3. The Plaintiff hereby agrees and confirms that the possession of the new Flat being No.403 admeasuring 475 sq. feet on the 4th

Floor in the "A" Wing of the building known as "Unique Aura" would be handed over to the Applicant and possession of the new Flat being No. 303 admeasuring 475 sq. feet on the 3rd Floor in the "A" Wing of the building known as "Unique Aura" would be handed over to Defendant No. 4.

4. Admittedly there is a dispute between the legal heirs /representatives of Late Jayantilal Keshavlal Shah, who was the original member of the Society and entitled to Old Flat No. 404 in the Old Building, and the same is being contested by his legal heirs in Testamentary Suit No. 47 of 2022. In view thereof, with respect to prayer clause (c) of the Interim Application, this Hon'ble Court in a previous Order dated 29th November 2022, as modified by Order dated 20th December 2022, passed in Interim Application No. 4375 of 2022, has already passed directions that:

"14. ...

Similarly, as far as the execution of the PAAA for Flat No.404 is concerned, the same shall be executed by the Plaintiff Developer with any person (i) who has the consent of all the legal heirs of the deceased or (ii) who has obtained an order in that regard from a competent court/authority."

(emphasis supplied)

5. As there is a dispute regarding the entitlement to the New Flats and in view of the Order dated 29th November 2022 read with Order dated 20th December 2022 passed by this Hon'ble Court, the Plaintiff Developer and the Defendant No. 1 Society

have undertaken to this Hon'ble Court that they shall execute a PAAA for the New Flats to be allotted by the Developer in lieu of the Old Flat No.404 in favour of the Court Receiver, High Court, Bombay. Upon final adjudication of the disputes between the legal heirs/representatives of the deceased in Testamentary Suit No. 47 of 2022, the Court Receiver shall execute Agreement in favour of such person/s who shall be entitled to the New Flats upon, in accordance with the directions of this Hon'ble Court passed vide Order dated Order dated 29th November 2022, as modified by Order dated 20th December 2022, in favour of whoever is entitled to the New Flats, in accordance with law.

6. On execution of the PAAA in favour of the Court Receiver, High Court, Bombay, shall hand over the Original Registered PAAA to the Prothonotary & Senior Master, High Court, Bombay, to be released by the Prothonotary & Senior Master, High Court, Bombay, to the entitled party subject to outcome of Testamentary Suit No. 47 of 2022.

7. That the hardship compensation (corpus) in respect of old Flat No.404 which is deposited with Defendant No.1 Society be kept in a fixed deposit with a Nationalised Public Sector Bank and the same be released subject to the outcome of the Testamentary Petition No. 47 of 2022 pending before the Hon'ble Bombay High Court and / or consent with all the legal heirs of the deceased.

8. Accordingly, Interim Application No. 1970 of 2025 stands disposed off in view of the above.

9. No order as to costs.”

4. Learned Advocate representing one Ms. Priti Shah, the sister of Defendant No.4 and 5 raises concerns about developments that have taken place behind her back in terms of bifurcating the entitlements into two separate flats and submits that her contentions, in whichever forum and whatever proceedings that may be taken, should not be undermined by this Suit having been worked out in terms of this order.

5. Needless to say, nothing contained in the terms on which this Suit is worked out can bind any person who is not a party to the Suit. All contentions of Ms. Priti Shah may be agitated at such forums as may be advised.

6. Defendant No.4 and 5 submit that their siblings were always aware of the bifurcation. Be that as it may, it is not for this Court to interfere in that controversy since that is not subject matter of the cause of action in this Suit. Since the Court Receiver would be executing the documentation for the two flats on behalf of the estate of the deceased, the Court Receiver is hereby reappointed and each of Defendant No.4 and 5 may be made agents without payment of royalty to the Court Receiver, subject to execution of appropriate agency agreements in accordance with the rules.

7. Needless to say, nothing contained in this order would impinge upon the rights of any other siblings or any other party making a claim to the subject flats, they not being a party to these proceedings. Needless to say, the testamentary proceedings would be dealt with on its own merits without being influenced by the arrangements set out in this order. The custody of the two flats would abide by the outcome of the testamentary proceedings.

8. In these circumstances, the Suit stands discharged insofar as it relates to Defendant Nos.4 and 5.

9. Stand over to ***April 23, 2026.***

10. Learned Advocate for the Society shall coordinate with the office of the Court Receiver for appropriate appointments for execution of the requisite documents.

11. All actions required to be taken pursuant to this order shall be taken upon receipt of a downloaded copy as available on this Court's website.

[SOMASEKHAR SUNDARESAN, J.]