

Amberkar

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
O.O.C.J.

INTERIM APPLICATION (L) NO. 33470 OF 2025
WITH
SUIT NO. 364 OF 2025

Parshwa Padmavati Projects Pvt Ltd

Applicant
.. (Org. Plaintiff)

IN THE MATTER BETWEEN

Parshwa Padmavati Projects Pvt Ltd

.. Plaintiff

Versus

Oshiwara Sahyadri Co-op. Housing Society Ltd
& Ors.

.. Defendants

WITH
IPA(L) 35224 OF 2025

.....

- Mr. Prathamesh Kamat a/w Mr. Nakul Jain, Mr. Nivit Srivastava, Ms. Sneha Patil, Ms. Isha Vyas, Ms. Aditi Sinha & Mr. Bhavya R. Shah i/by M/s. Maniar Srivastava Associates, Advocates for Plaintiff
- Mr. Nikhil S. Rajeshirke, Advocate for Defendant No. 1
- Mr. Mayur Khandeparkar i/b. Mr. Sandesh Daptare for Defendant Nos. 4, 5, 8, 11, 15, 16, 19, 20, 21, 22, 23, 27 to 34, 36, 37, 39, 43, 44, 46, 47, 50, 51, 52, 53, 56, 57, 59, 60, 62, 63 to 78, 80, 83 to 85, 86, 87, 90, 92, 93, 94, 95 to 97

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CORAM : MILIND N. JADHAV, J.

DATE : JANUARY 28, 2026

P. C.:

1. Heard Mr. Kamat, learned Advocate for Plaintiff, Mr. Rajeshirke, learned Advocate for Defendant No. 1 and Mr. Khandeparkar, learned Advocate for Defendants mentioned in the appearance clause.
2. Suit as originally filed by Plaintiff - Developer on 14.10.2025 represented by Mr. Kamat arrayed the Society as Defendant No. 1 and

96 members of the Society as Defendant Nos. 2 to 97. Some of these Defendants hold joint membership of flats. Society is comprising of 84 tenements / flats. There are certain incidents which occurred in the interregnum culminating into holding of Special General Meeting (SGM) of the Society on 25.01.2026 wherein Defendant No.1 Society has now resolved to go ahead with redevelopment of the Society with the Plaintiff Developer. Resolution passed by the Society is by majority and in that view of the matter, Society has resolved to withdraw the termination of the Developer which had initially resulted in filing of the present Suit in October 2025.

3. At the outset Mr. Kamat seeks to place on record a draft amendment and seeks permission to amend the Suit plaint and Interim Application. Draft amendment is taken on record and marked "X" for identification. He would submit that Plaintiff desires to seek appointment of the Court Receiver and persuades the Court to allow the same in the interest of justice in the event if there is dissent by dissenting members / Defendants. He would submit that since it is a pre-hearing amendment, same be allowed by Court. Considering that the said amendment is a pre-hearing amendment and is required to be allowed in such cases before the Court, the same stands allowed. Amendment is permitted to be carried out in the Suit as well as Interim Application seeking interim reliefs within a period of one week

from today. Re-verification stands dispensed with. Copy of the amended plaint and Interim Application shall be served on all Defendants.

4. Out of 84 flats, Mr. Kamat has placed on record list of 61 members / Defendants (in respect of 53 flats) who have filed their joint limited affidavits. He would submit that these 61 Defendants for 53 flats have filed their joint limited affidavits supporting the Society and Plaintiff.

5. In respect of the resolution dated 25.01.2026 and the minutes of the SGM, additional affidavit dated 27.01.2026 is filed on behalf of Defendant No. 1 Society. Said affidavit is taken on record which is placed by Mr. Rajeshirke.

6. Mr. Khandepakar, learned Advocate appearing for some consenting Defendants informs the Court that out of 84 flats, 61 Defendants / members (in respect of 53 flats) have voted in favour of the Developer and desire to proceed with redevelopment. He would submit that the majority now supports the Plaintiff Developer for redevelopment.

7. It is trite law that members in minority cannot withhold redevelopment unless and until there is a plausible or probable cause and objections are raised before the Court by them filing substantive

proceedings and undoubtedly the same should be also convincing. Once the Society has in its SGM resolved to withdraw the termination of Plaintiff Developer and the majority resolution having been placed on record, there is no reason for the dissenting members in the minority to withhold or stall development. I am informed by Mr. Kamat that they were directed to be served sometime in October and he would inform the Court that all these Defendants were served by email thereafter on 24.01.2026. Affidavit of service to that effect is also filed by Mr. Kamat. Today when the matter is called out, none of these Defendants are present in Court. *Prima facie* the above timeline is very short. These dissenting Defendants shall have to be given time. They are directed by this Court to remain present either by themselves or through their Advocate before the Court on the next adjourned date to enable the Court to hear their grievance, if any, before passing further orders in the Interim Application which has been filed by the Plaintiff. They are directed to file reply, if any, to voice their grievance, to the Interim Application which has already been served upon them especially in view of the further development which has occurred in the matter pursuant to filing of the Suit proceedings and the SGM resolution dated 25.01.2026. Copy of the affidavit filed by Mr. Rajeshirke on behalf of the Society dated 27.01.2026 is directed to be served on each of the aforesaid dissenting Defendants by the Advocate

for Plaintiff forthwith to enable them to consider the same and place their objections before the Court. Appropriate affidavit of service to that effect shall be filed on the next adjourned date. Copy of this order shall also be served on them.

8. It is clarified that if the dissenting Defendants do not remain present on the next adjourned date despite being served, this Court shall consider to hear the parties before the Court and pass appropriate orders in accordance with law which shall be noted by them. Defendant No. 1 Society is also directed to serve copy of this order to all the aforesaid dissenting members - Defendants in their respective flats for their intimation so that they all are made aware about the present proceedings and if they are seriously concerned, they are directed by Court to come and voice their grievance before the Court for consideration.

9. Stand over to **4th February, 2026** under the caption "**for Directions**".

[MILIND N. JADHAV, J.]

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