



Order.CAO.1388.2025 in mcast.27932.2025 in AO.5.2025.odt

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH : NAGPUR

CIVIL APPLICATION (CAO) NO. 1388 OF 2025
IN
MISC. CIVIL APPLICATION (ST) NO. 27932 OF 2025
IN
APPEAL FROM ORDER NO. 05 OF 2025 (D)

Kamalkumar Satyanarayan Agrawal ... APPLICANT

Versus

Ramkrishna Co-operative Housing Society Ltd. ... RESPONDENTS
and Others

Mr. Sudhir Viditel, Advocate for Applicant/Original Respondent No.3.
Mr. Anand Parchure, Advocate a/w Mr. Abhijeet Khare, Advocate for
Respondent No.3/Original Appellant.
Mr Nikhil Valesha, Advocate for Respondent Nos.9 to 11.

CORAM : PRAVIN S. PATIL, J.
ARGUMENTS HEARD ON : FEBRUARY 02, 2026.
PRONOUNCED ON : FEBRUARY 16, 2026.

COMMON ORDER

. Heard Mr. Sudhir Viditel, the learned Counsel for Applicant, Mr.
Anand Parchure, learned Counsel for the Respondent No.3 and Mr. Nikhil
Valesha, learned Counsel for the Respondent Nos.9 to 11.

2. The Applicant has moved this Application for condonation of

delay of 22 days caused in preferring the Application for review of order dated 14/10/2025 passed by this Court in Appeal From Order No.5/2025.

3. Considering the period of delay only of 22 days, with consent of parties, the Review Application and Application for condonation of delay are heard simultaneously, and accordingly, both the Applications are decided by common order.

4. In the present case, Applicant is seeking review of order dated 14/10/2025 passed by this Court, by which, this Court allowed the Application for temporary injunction and directed the present Applicant/Respondent No.3 not to create third party interest in the suit property till final decision of the Special Civil Suit No. 1353/2023, which is pending on the file of Civil Judge Senior Division, Nagpur. The present Applicant was also permitted to continue the construction over the suit property on his own risk, subject to final outcome of the Special Civil Suit No.1353/2023 and also the trial court was directed to decide the Special Civil Suit as expeditiously as possible and in any case till the end of May-2026.

5. The Applicant approached before this Court by way of Review Application with a submission that the construction is in half phase, and

therefore, the order of this Court, restraining him from creating third party interest is likely to render the project incomplete in future. Hence, according to him, equity between the parties can be balanced, if the Applicant is permitted to furnish security to the extent of price of the suit land, at which, it was sold to him by way of Sale Deed dated 25/4/2022 by the Respondent No.1, or in alternative, some Apartments can be ordered to be attached and permission to sale the rest of the Apartments be granted. He stated that sale consideration of some Apartments, which is equivalent to the value of land i.e. Rs.4.85 Crores, can be deposited in the Nationalised Bank in Fixed Deposit as per the order of this Court and may payable to the present Respondent No.3/Original Plaintiff. Hence, on this ground, he seeks interference of this Court in the matter.

6. The Applicant has raised further various grounds in the present matter, to point out, as to how this Court has wrongly exercised the jurisdiction while passing the order dated 14/10/2025, but he has restricted his argument only on the point of equity and did not raise other grounds in the matter.

7. The present Respondent No.3/Original Plaintiff has strongly opposed the Application. According to the Original Plaintiff, this Court has already balanced the equity, by permitting present Applicant to keep continue his construction work and only directions were issued not to create third party

interest in the suit property till final decision of the Special Civil Suit No.1353/2023. It is further submitted by the Respondent No.3 that admittedly the Applicant has undertaken the construction of residential flats, and therefore, the prospective purchasers of the flats must be aware when they are approaching to the Applicant for purchase of the flats and with this intention this Court has directed the Applicant not to create third party interest in the property.

8. It is stated that prospective purchasers before investing their huge amount must know the correct status of property and knowing this fact, if they purchased the residential flats, same would be then at their risk and consequences thereof, and therefore, taking care of the prospective purchasers, this order came to be passed by this Court. Hence, no interference of this Court is warranted in the present matter.

9. The Applicant has strongly relied upon the Judgement of the Hon'ble Supreme Court of India in the case of *Dalpat Kumar and Another V/s Pralhad Singh and Others, (1992) 1 Supreme Court Cases 719*, wherein the Hon'ble Supreme Court has held that while considering the issue of temporary injunction court should be cautiously look to the conduct of the party, probable injuries to either party and whether Plaintiff could be adequately compensated,

if injunction is refused. However, according to the Applicant, this fact though not pointed out at the time of argument on his part, same can be considered while considering the application for review of the matter so that the loss which Applicant is likely to be caused in the matter will be compensated.

10. The learned Counsel appearing for Respondent No.3/Original Plaintiff has strongly opposed this contention and stated that Section 114 and Order 47 Rule 1 of the Code of Civil Procedure deals with the powers of review of the Court. There are certain limitations laid down by the Hon'ble Supreme Court of India. According to him, the power of review can be exercised for correcting error, but not to substitute a view. So also according to the Applicant, review court does not sit in Appeal over its own order. Rehearing of the matter is improper, which constitute an exception to the general rule that once the Judgment is signed and pronounced, it should not be altered, hence, the powers of review can be invoked only to correct the palpable errors.

11. It is the submission of the present Respondent No.3 that acceptance of any submission, which is made by the present Applicant, would amount to rehearing of the entire matter, which is not permissible under the settled principles of law, and therefore, according to the Respondent No.3, in any case the review is not permissible in the matter.

12. After hearing both the parties and going through the grounds which Applicant has raised in this Application, it is clear that no apparent error has been committed by this Court, which necessitates to review the order. Acceptance of the submission made by the Applicant would nothing but to substitute a view and amount to rehearing of the Appeal, which is not permissible under the settled principles of law.

13. Hence, in my opinion, no case is made out for review, and therefore, the Application for condonation of delay as well as the Application for review of order is hereby rejected. No order as to costs.

[PRAVIN S. PATIL, J.]

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