

ITEM NO.14

COURT NO.5

SECTION IX

S U P R E M E C O U R T O F I N D I A
RECORD OF PROCEEDINGS

Petition for Special Leave to Appeal (C) No.34137/2026

[Arising out of impugned final judgment and order dated 11-06-2026 in AFO No. 535/2025 passed by the High Court of Judicature at Bombay]

VILE PARLE RAJTARA CHS LIMITED & ORS.

Petitioner(s)

VERSUS

MAHESH MAHENDRABHAI MODI

Respondent(s)

FOR ADMISSION

**IA No. 311676/2026 - PERMISSION TO FILE ADDITIONAL
DOCUMENTS/FACTS/ANNEXURES**

Date : 12-10-2026 This matter was called on for hearing today.

**CORAM : HON'BLE MR. JUSTICE J.B. PARDIWALA
HON'BLE MR. JUSTICE K. VINOD CHANDRAN**

**For Petitioner(s) :Mrs. Nina R. Nariman, Adv.
Mr. Siddharth Praveen Acharya- 3571, AOR
Ms. Jayam Singh Chauhan, Adv.
Mr. Puran Rajpurohit, Adv.
Mr. Vikas Pal, Adv.
Mr. Parvez Alam, Adv.**

Mr. S.P. Ojha, Adv.
Ms. Princess Singh, Adv.

For Respondent(s) :Mr. Krishnamohan K.- 2561, AOR
Ms. Prerna Jain Kala, Adv.
Mr. Vikramjit Garewal, Adv.
Mr. Rupesh Geete, Adv.

Upon hearing the counsel, the Court made the following
O R D E R

1. The petitioner Society is aggrieved with the impugned order of the High Court, which affirmed the interim injunction granted by the Trial Court. The petitioner was involved in the redevelopment of a 48-year-old building and in considering the reallotment to the present occupant, the 1st respondent had raised a contention with respect to his ownership of an Open Terrace. This was disputed by the Society, upon which a suit was filed, in which an interim order of injunction was passed. The suit is pending and we are only concerned with the adjustment of the equities; in preservation of the rights, if any, accrued to the plaintiff while not adversely affecting the redevelopment work.

2. We heard Smt. Nina R. Nariman, learned Counsel for the petitioner and Sri. Krishnamohan K., learned AoR for the 1st respondent.

3. The specific contention of the plaintiff i.e., the 1st respondent, was with respect to an 'Open to Sky' Terrace attached to Flat No.B-405, the ownership of the flat being admitted by the Society, as conferred on the plaintiff. The plaintiff itself has relied on the feasibility report of the Architect, from which an extract was made in the order of the Trial Court, which we extract hereunder:

"As per the details forwarded by the Society, the Open to Sky common Part Terrace adm. 1494 sq.ft. is attached to the adjoining Flat No. B-405. On verification with the copy of the certified Last approved Plans dated 17/05/1998, of the extg. Society building, in my opinion, as per prevailing Market practice, the said area of the Open to Sky Terrace attached to the Flat No.B-405 is adopted to the extent of 33% of the said open to Sky Terrace i.e. 1494 sq.ft x 0.33 = 493 sq.ft."

4. The additional claim is with respect to 493 sq. ft. and

we are of the opinion that the equities can be adjusted with a direction to the Society to design a unit with the additional area, as indicated by the Architect and if the plaintiff is found disentitled in the suit, then either he would pay the price for the additional area or the Society could sell that premises and provide him with a unit commensurate with his entitlement.

5. The Maharashtra Housing and Area Development Authority (MHADA) shall provisionally certify the plaintiff's area as that of the flat plus the abutting terrace, to the extent the Architect has provided for. The Society shall ensure that a unit of that extent shall be constructed in the new building, which shall be conceded to the plaintiff, if his entitlement is eventually found; and if not, offer the same to the plaintiff with a condition of payment being made to the Society for the additional area with reference to the Open Terrace. If the petitioner refuses to purchase the same on his disentitlement being found, the Society could also sell the said property and provide an alternate accommodation to the plaintiff commensurate with his actual entitlement.

6. We were told by the learned Counsel for the respondent that even now, the Society has barely been asked to preserve his right. However, we are at a disadvantage insofar as the order of the Trial Court only speaks of allowing the prayers in the Notice of Motion No.1701 of 2024, as prayed for in Clauses A(i), (ii) and (iii). A copy of the Notice of Motion has not been produced along with the Special Leave Petition. It is, hence, we pass the above order ensuring preservation of the plaintiff's rights but also facilitating the redevelopment process.

7. The plaintiff shall hence vacate the premises in accordance with the conditions of redevelopment within a period of one month or the time provided by the Society to the other residence, whichever is greater.

8. We make it clear that we have not considered the entitlement of the plaintiff for the Open Terrace, which will be considered in the suit, uninfluenced by any of the observations made by the High Court or this order.

9. The Special Leave Petition is disposed of.

10. Pending application(s), if any, shall stand rejected.

(CHANDRESH)
ASTT. REGISTRAR-cum-PS

(POOJA SHARMA)
COURT MASTER (NSH)