



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
INTERIM APPLICATION (L) NO. 14629 OF 2026

IN

SUIT NO. 277 OF 2026

Neelam Kumar Katara & Ors.

... Applicants/Plaintiffs

Versus

Kalpana Tarak Mehta & Ors.

... Respondents/Defendants

Mr. Venkatesh Dhond, Senior Advocate a/w. Mr. Dhruva Gandhi, Ms. Chaitra Rao, Mr. Jatin Sheth, Mr. Samarth Jaidev for Plaintiffs.

Mr. S.U. Kamdar, a/w. Mr. Aseem Naphade, Ms. Jayashri Manjrekar, Ms. Heli Mevada, Ms. Simal Oza i/b. Solicis Lex for Defendant No.1

Mr. Aman Sinha, Senior Advocate a/w. Ms. Heli Mevada, Mr. Gaurav Jain, i/b. Solicis Lex, for Defendant No. 2.

CORAM : ARIF S. DOCTOR, J.

RESERVED ON : 7th SEPTEMBER 2026

PRONOUNCED ON : 8th OCTOBER 2026

P.C.

1. The Applicants, who are the Plaintiffs in the captioned Suit, have filed the present Interim Application seeking various interim reliefs. The Applicants have however only pressed for interim relief in terms of prayer clause (a) of the Interim Application, which reads as follows:

“a. pending the hearing and final disposal of the present Suit, appoint the Court Receiver, High Court, Bombay as the Receiver in respect of the Suit Property, and to vest the said Receiver with all powers, as contemplated under Order XL, Rule 1 of the Code of Civil Procedure, 1908, and to thereafter direct the said Receiver to

i. take physical possession of the Suit Property;

ii. to take police assistance, if necessary, to take physical possession of the Suit Property;

iii. to appoint the Applicants as agents of the Court Receiver, and to handover physical possession of the Suit Property to the Applicants, as agents of the Court Receiver.”

For convenience, the parties are referred to as they appear in the Interim Application.

Factual Background:

2. Before adverting to the rival contentions, it is useful for context to set out the following facts, viz.

- i. The “**suit property**” is Flat No. 902, in Evita Cooperative Housing Society Limited, Powai, Hiranandani Gardens, Mumbai, 400076. It is not in dispute that the suit property comprises 4 different units, i.e., flat nos. 902/A, 902/B, 902/C and 902/D, all of which collectively measure 4575 sq. ft. and constitute the suit property.

- ii. The Applicants and Respondent No. 1 entered into four registered Agreements for Sale, all dated 7th October 2025 (“**the said Agreements**”), one in respect of each of the four units that collectively constitute the suit property. It is not in dispute that the material terms of each of the four Agreements are *pari materia*.
- iii. In a nutshell, the suit property was mortgaged to the Satara Sahakari Bank as security for a loan taken by Respondent No. 1. The said Agreements essentially provided that if the Applicants discharged the said loan on or before 31st March 2026, the Applicants would be entitled to possess and occupy the suit property.
- iv. It is not in dispute that the Applicants had, on 10th September 2025, i.e., even prior to the execution of the said Agreements for Sale, paid a token consideration of Rs. 45 lakhs to Respondent No. 1 and, after the execution of the said Agreements, paid an additional amount of Rs. 55 lakhs. Thus, the Applicants had admittedly paid an amount of Rs.1 crore to Respondent No. 1 even before the execution of the said Agreements.

- v. It is the Applicants' case that they had, before the stipulated deadline, i.e. 31st March 2026, deposited the entire balance loan amount of Rs.10,73,30,251/- with the Satara Sahakari Bank, despite which the Respondents did not hand over the quiet and peaceful possession of the suit property, and instead proceeded to terminate the said Agreements.
- vi. Thus the present Suit.

Submissions on behalf of the Applicants:

3. Mr. Dhond, Learned Senior Counsel appearing on behalf of the Applicants, at the outset pointed out that the Respondents had not, prior to the termination notice, ever denied the said Agreements or even disputed any of the Clauses contained therein. He also pointed out that the Respondents had not denied the receipt of Rs. 1 Crore which was paid by the Applicant, to Respondent No. 1 on or before the execution of the said Agreements.
4. He submitted that even after the execution of the said Agreements, the Parties had acted upon the same, making it evidently clear that the said Agreements were genuine Agreements for Sale of the suit property and not

Agreements for Financial Assistance, as claimed by the Respondents in the termination notice. In support of this contention that the said Agreements had in fact been acted upon by the parties, Mr. Dhond pointed out the continuous and regular exchange of correspondence, including letters and WhatsApp messages, between the Applicants and Respondents, all of which he reiterated, demonstrated that the said Agreements were infact for the sale of the said suit property.

5. Additionally, he pointed out that on 12th March 2026, a survey of the suit property was carried out by two surveyors appointed by the Applicants' Bank, i.e. HSBC Bank, at which time Applicant No. 2, as well as officials of HSBC Bank, and Respondent No. 2 were all present. He submitted that, at the time of the survey, Applicant No. 2 had also handed over to Respondent No. 2, a draft of the NOC which HSBC Bank required from the society. He submitted that Respondent No. 2 had also confirmed to the Applicants that he would immediately submit the request at the society office.

6. Mr. Dhond then submitted that the Satara Sahkari Bank Limited, by its letter dated 18th March 2026, intimated to the Respondents that the outstanding amount under the loans availed of by the Respondents was Rs.10,73,30,251/- as on 18th March 2026. He submitted that on 20th March 2026, merely two days after the said letter, Applicant No. 2 shared draft Sale Deeds for all four units of the suit property, with Respondent No. 2 over WhatsApp in response to a message sent by Respondent No. 2.
7. Mr. Dhond pointed out that Clause 19 of the said Agreements clearly provided that upon receiving the full payment as provided in the said Agreements, the Respondents would have no right, title, interest or claim in the suit property. Similarly, he pointed out that Clause 28 of the said Agreements specifically provided that the same would operate as Sale Deeds upon compliance of all the terms and conditions encapsulated in the said Agreements. He therefore submitted that the contractual arrangement itself contemplated that, in the absence of a separate Sale Deed, the Agreements for Sale were to operate as Sale Deeds if all the conditions

were satisfied. The execution of a separate Sale Deed, he pointed out, was only if the Applicant so desired.

8. Mr. Dhond then submitted that, on 22nd March 2026, a meeting was held between the Applicants and the Respondents at the suit property, at which Respondent No. 2 expressly confirmed that the Respondents were willing to proceed with the transaction and expressed a desire to complete the same in the following week. He submitted that, on the morning of 23rd March 2026, Respondent No. 2 submitted an application to the Society seeking an NOC, as contemplated in Recital (c) of the said Agreements. He further submitted that, on 24th March 2026, Respondent No. 2 called Applicant No. 2 several times during the course of the day and requested that Applicant No. 2 meet the Chairman of Satara Sahakari Bank. However, since Applicant No. 2 was in Delhi on that date, the parties agreed to hold the meeting on the following day.
9. Accordingly, on 25th March 2026, Applicant No. 2 attended a meeting with the Chairman of Satara Sahakari Bank at the request of Respondent No. 2, during which the Chairman informed Applicant No. 2 that Respondent No.

2 was required to arrange a sum of Rs. 3 crores immediately; failing which, the bank would proceed to execute a Court Order by which the Bank would take possession and then sell the suit property according to the provisions of the SARFAESI Act, 2002. In view of the defaults committed by Respondent No. 1 in repayment of the loan.

10. He submitted that the Applicants thereafter handed over two Demand Drafts, issued by HSBC Bank, to Satara Sahakari Bank. The first, being Demand Draft No. 033027 dated 26th March 2026 for Rs. 3,91,85,051/-, , and the second, being Demand Draft No. 033028 dated 30th March 2026 for Rs. 6,81,45,200/-. He further submitted that, in addition to the aforesaid two Demand Drafts, the Applicants also deposited two further Demand Drafts with Satara Sahakari Bank on 31st March 2026, one issued by Axis Bank for Rs. 1,36,50,000/-, and the other by HSBC Bank for Rs. 26,69,749/-. He pointed out that these Demand Drafts were dated as well as tendered on and before 31st March 2026. He therefore submitted that the Applicants had duly cleared the said loan and thereby discharged their obligations under the said Agreements.

11. Mr. Dhond placed reliance upon the decision of the Hon'ble Supreme Court in *Commissioner of Income Tax v. Ogale Glassworks Ltd.*¹ to submit that, when payment is made by cheque, the date of payment relates back to the date on which the cheque was delivered. He submitted that, in the facts of the present case, the Applicants stood on an even stronger footing, since the payments were made by way of Demand Drafts, thereby eliminating any possibility of dishonour. He further reiterated that, since the Demand Drafts/Pay Orders were received on 26th March 2026 and 30th March 2026, respectively, those dates would, in law, constitute the dates of payment in terms of the aforesaid decision of the Hon'ble Supreme Court. He also pointed out that the Applicants' bankers had, by emails dated 25th June 2026 and 1st July 2026, confirmed that the funds had been presented to Satara Sarkari Bank on 31st March 2026 and therefore submitted that there could be no doubt that the Applicants had duly discharged their obligation to repay the entire loan amount on or before 31st March 2026.

¹ AIR 1954 SC 429.

12.Mr. Dhond was then at pains to point out that the Respondents' notice of termination was issued after the Applicants had duly discharged their obligations under the said Agreements. He pointed out that the Respondents had, in fact, in paragraph 11 of the Notice of termination, expressly recorded, that the entire payment had been made by the Applicants. He submitted that, in view of the express acknowledgement contained in the notice itself, the Respondents could not now be heard to contend that the entire sale consideration had not been paid on or before 31st March 2026.

13.Mr. Dhond then further pointed out that Satara Sahakari Bank had handed over all the original documents and title deeds pertaining to the suit property to HSBC Bank and had issued two certificates, both dated 4th April 2026, certifying that the Satara Sahakari Bank had no claim, right, title or interest in respect of the suit property. He also pointed out that, on the same day, Satara Sahakari Bank had addressed a letter to the Advocates for Respondent No. 1, expressly stating that the Bank had communicated with the Applicants with the full knowledge of

Respondent No. 1 and that HSBC Bank had also confirmed receipt of the original title deeds from Satara Sahakari Bank.

14.Mr. Dhond submitted that the termination letter issued by the Respondents, invoking Clause 7, was mala fide, illegal, and unsustainable. He submitted that Clause 7 must also be construed as a whole and also read *ejusdem generis* with the other clauses of the said Agreements. He pointed out that when Clause 7 was construed as whole and contextually with the other clauses, it was clear that Clause 7 did not confer upon the Respondents an independent or unconditional right to terminate the said Agreements, Clause 7 only contemplated a situation where the seller was unable to proceed with the transaction for a genuine reason and, in such circumstances, Clause 7 provided for payment of a penalty of Rs.1,00,00,000/- to the Applicants. He therefore submitted that Clause 7 neither contemplated the refund of the said amount from the sale consideration nor conferred upon the Respondents any unconditional right to resile from the said Agreements in the manner sought by them.

15.Mr. Dhond reiterated that the contemporaneous documentary record, read with the Applicants' conduct throughout this period, demonstrated that the Applicants had consistently taken steps towards completing the transaction and had, in fact, completed it within the time stipulated in the Agreements for Sale. He therefore submitted that the Applicants had made out a strong *prima facie* case for the grant of interim relief in terms of prayer clause (a). He submitted that the balance of convenience was in favour of the Applicants, since they had paid the entire sale consideration, he therefore submitted that, as per Clause 19 of the said Agreements, the Respondents did not have any right, title, and interest in the suit property and were therefore, in terms of the said Agreements, trespassers.

16.Mr. Dhond also submitted that the Applicants would be gravely prejudiced if interim reliefs were not granted, especially since the Applicants needed the suit property to meet the unique medical needs of Applicant No. 1. He submitted that the Respondents, on the other hand, after the entire loan was discharged, sought to terminate the said Agreements by raising an entirely

false claim and continued to remain in possession of the suit property despite having no right, title or interest in the same.

17. In these facts, he submitted that this Court could, at the interim stage, direct the Respondents to put the Applicants in possession of the suit property. In support of his contention, he placed reliance upon the decision of this Court in the case of ***Rajaram Chauhan Real Estate Pvt. Ltd. v. Mohammed Anwar Kutubuddin Siddiqui***², which he pointed out *inter alia* held as follows, viz.

“17. Thus, all that has been done by the Impugned Order is to permit Respondent No. 1 to occupy the suit flat pending the hearing and final disposal of the Suit. The Learned Single Judge has after considering the facts of the case and weighing the balance of convenience, passed the Impugned Order. We are in agreement with the reasons set out by the Learned Judge in concluding that the balance of convenience in the present case is entirely in favour of Respondent No. 1.”

18. Also, we find the contention of the Developer that the Developer was in possession of the suit flat and thus ought not to be dispossessed at the interim stage to be a contention which is entirely devoid of merit. The Developer could never be in lawful possession of the suit flat since it is the Developer's own case that the Developer would be entitled to an adjustment of an area from the Owner's share on the Owner's failing and/or neglecting to perform its obligations under the JDA. Thus, it is incumbent upon the Developer to first establish the defaults on the part

² 2023 SCC OnLine Bom 1931.

of the Owner before claiming entitlement to the suit flat or any area forming part of the Owner's share. In the present case, the Developer has admittedly not established the default on the part of the Owner which would entitle the Developer to proportionate area from the Owner's share. Given this, we find that what the Developer is effectively attempting to do is to deprive the Owner of his entire entitlement and claim possession of inter alia the suit flat based solely upon the Developers contention that the Owner is in default. We find that this being the basis of the Developer's claim of possession the same is ex facie untenable in law. Even if the possession was infact with the Developer, such possession is clearly not lawful and therefore would necessitate appointment of a Court Receiver as has been held by the Madras High Court in the T. Krishnaswamy Chetty (supra).

19. We also find no merit in the contention that the possession of the suit flat cannot at the interim stage be granted to Respondent No. 1. As noted above, the possession or claim of possession of the suit flat by the Developer is prima facie unlawful and therefore as held by this Court in the case of Mulji Umershi Shah (supra) there is no impediment put by the Code of Civil Procedure for passing any order so as to prevent the ends of justice from being defeated which includes putting a party in possession of a property where sufficient cause is shown even at the interim stage."

(Emphasis supplied)

Submissions on behalf of the Respondent No. 1:

18.Mr. Kamdar, Learned Senior Counsel appearing on behalf of Respondent No. 1, opposed the Interim Application by submitting that the Applicants had failed to discharge their obligations of repaying the loan amount by

31st March 2026. He submitted that the amount of Rs.10,73,30,251/- was, admittedly, credited to the loan account of Respondent No.1, only on 4th April 2026 and therefore the failure of the Applicants to discharge the said loan on or before 31st March 2026 would disentitle the Applicants to any relief, interim or otherwise.

19.Mr. Kamdar then invited my attention to recital (c) of the said Agreements, read with Clauses 7 and 26 thereof. He submitted that on a conjoint reading of these clauses, it was clear that: (i) the Applicants were contractually required to discharge the outstanding loan amounts on or before 31st March 2026; (ii) Respondent No. 1 had the unfettered right to withdraw from the said Agreements, in which event Respondents' obligation was limited to refunding the entire amount paid by the Applicants, together with a penalty of Rs. 1 crore in respect of each flat, aggregating to Rs. 4 crores; (iii) in the event that the Respondents were, for any reason, unable to transfer the suit properties to the Applicants, the said Agreements contemplated cancellation, upon which Respondent No. 1 would be required to refund the entire amount paid by the Applicants,

together with a penalty of Rs. 1 crore in respect of each suit property, aggregating to Rs. 4 crores; and (iv) the Applicants, on the other hand, were entitled to seek specific performance in the event of a wilful default by the Respondents, as contemplated under Clause 26 of the said Agreements. He thus submitted that the said Agreements were determinable in nature.

20. He then submitted that recital (c) did not merely require the Applicants to initiate payment or deposit the requisite amounts on or before 31st March 2026; rather, it expressly contemplated that the outstanding loan amount would be cleared on or before that date. He submitted that, although it was the Applicants' case that they had deposited the requisite amounts on 31st March 2026, it was an admitted position that the amounts were credited only on 4th April 2026. He therefore submitted that the Applicants' contractual obligation stood discharged only after the stipulated deadline and that this constituted a clear breach of the timeline expressly agreed between the parties under the said Agreements.

21.Mr. Kamdar further submitted that the said Agreements were commercial contracts and that the parties were, therefore, bound by the bargain they had consciously struck as recorded in the Agreements. He submitted that the Court ought to strictly give effect to the contractual terms as agreed between the parties, which included that the stipulated outstanding loan was to be cleared on or before 31st March 2026.

22.He then placed reliance upon the decision in *Ramesh Chand v. Suresh Chand*³ to submit that an Agreement for Sale and a Sale Deed are distinct instruments. He submitted that an Agreement for Sale merely crystallises the terms upon which a future sale is to be effected and does not, by itself, transfer title or create any interest in the immovable property. Despite this, he pointed out that the Applicants had claimed ownership of the suit property solely on the basis of the Agreements for Sale, when admittedly no Sale Deed had been executed in their favour.

23.He therefore submitted that the Applicants could not, on the strength of the Agreements for Sale, seek a declaration of ownership in respect of the suit property. In support of this contention, he placed reliance upon the

³ 2025 SCC OnLine SC 1879.

decision of the Jammu and Kashmir High Court in *Ghulam Qadir Mir v. Union Territory of Jammu and Kashmir*⁴ and also the decision of the Hon'ble Supreme Court in *Mohammed Raza v. Geeta*⁵ to submit that a person holding an Agreement for Sale cannot be treated as the owner of the property in question, unless and until the agreement is specifically enforced. Mr. Kamdar accordingly submitted that the Applicants could claim ownership of the suit property only upon a decree for specific performance being passed in their favour and not otherwise.

24. Mr. Kamdar also submitted that the Applicants had not, apart from the pay slips, produced any document to prove that the said loan was cleared on or before 31st March 2026. He submitted that any date could be filled in on a pay slip, and the fact that the amounts were credited into the loan account only on 4th April 2016 made it evident that these pay-in slips were backdated. He therefore submitted that the Applicant cannot seek to benefit from such evidently backdated pay-in slips.

25. Mr. Kamdar also placed reliance upon the Circular dated 3rd February 2026 issued by the Reserve Bank of India to submit that 31st March was

⁴ 2022 SCC OnLine J&K 270.

⁵ (2022) 13 SCC 858.

a bank holiday. He submitted that it was therefore impossible for the Applicants to have encashed the Demand Drafts and completed payment of the entire loan amount on 31st March 2026. Mr. Kamdar thus submitted that the Applicants had failed to establish that they had cleared the repayment of the entire loan amount on 31st March 2026 and thus the Applicants had clearly breached the terms of the said Agreements. He thus submitted that the Applicants were not entitled to any relief.

Submissions on behalf of Respondent No. 2:

26. Mr. Sinha, the Learned Counsel appearing on behalf of Respondent No. 2, adopted the submissions advanced by Mr. Kamdar and additionally submitted that Clause 7 of the Agreements for Sale expressly conferred on the seller, i.e., Respondent No. 1, the right to terminate the transaction “*for any reason*”. He therefore submitted that Clause 7 vested the Respondents with an unfettered right to withdraw from the transaction and that the Applicants’ reliance upon the doctrine of *ejusdem generis* was therefore misplaced, since the said doctrine could not be invoked to

restrict or override the express language of the contractual provision agreed to by the parties.

27.Mr. Sinha further submitted that the Suit was also bad for non-joinder of necessary parties. He submitted that Satara Sahakari Bank, HSBC Bank and the Society were all necessary parties because (i) Satara Sahakari Bank asserted that the monies were received only on 4th April 2026; (ii) HSBC Bank asserted that the Demand Drafts had been delivered on 31st March 2026; and (iii) the Society had not issued the NOC or permitted the transfer of the suit property in favour of the Applicants. He submitted that the Applicants were seeking a declaration of title in respect of the suit property over which Satara Sahakari Bank had asserted a mortgage and which the Society had refused to transfer. He therefore submitted that in the absence of these parties, the reliefs sought by the Applicants could not effectively be adjudicated upon.

28.Mr. Sinha then submitted that the Applicants were, in substance, seeking specific performance under the guise of a declaration of ownership. He submitted that no title in the suit property had passed to the Applicants,

even assuming that they had discharged the Respondents' mortgage liability. At most, such payment could give rise to a claim for reimbursement of the amount paid, but it could not result in the transfer of ownership, particularly since the Respondents had cancelled the said Agreements before the Applicants had discharged their obligation to make payment.

29.Mr. Sinha therefore submitted that the Applicants' only remedy was to seek a refund of the amounts paid, instead of which the Applicants had instituted the present Suit seeking a declaration of ownership over the suit property. He then also submitted that the Applicants had also initiated criminal proceedings against the Respondents, without first establishing whether the Respondents had performed their obligations under the said Agreements.

30.Mr. Sinha then submitted that under the said Agreements, time was of the essence. He submitted that since the Applicants had failed to clear the outstanding loan amount by 31st March 2026, the said Agreements had become voidable at the instance of the Respondents as per the provisions

of Section 55 of the Indian Contract Act, 1872 and hence the Respondents were wholly accurate in terminating the said Agreements.

31.Mr. Sinha submitted that, since the Respondents were presently in possession of the suit property, the appointment of a Court Receiver would effectively dispossess the Respondents and render them homeless. He submitted that such relief ought not ordinarily to be granted at the pre-trial stage, particularly when the Applicants had never been in possession of the suit property. He submitted that the undertaking given by the Respondents as recorded in the Order dated 4th May 2026 could be continued till the further orders. He submitted that therefore the balance of convenience was in favour of the Respondents and not the Applicants.

Submissions on behalf of the Applicants in Rejoinder:

32.Mr. Dhond reiterated that the Respondents' interpretation of Clause 7, whether read in isolation or in the context of the Agreements as a whole, was plainly erroneous. He first reiterated that the words "*or if the Seller Backs off for any reason*" had to be construed *ejusdem generis* and not in isolation. He further submitted that, if the parties had intended to confer

upon the Respondents an unfettered right to terminate the Agreements, the Agreements would have simply said so, which was not the case. He submitted that there would, in that event, be no need for the preceding portions of Clause 7.

33. He then also submitted that Clause 7, when read in conjunction with Clauses 8, 17, 18 and 19, made clear beyond the pale of doubt that once the Applicants had discharged the said loan before 31st March 2026, the Respondents were obligated to hand over quiet and peaceful possession of the said Flat, without any hindrance, denial, interruption or eviction. He reiterated that the Applicants, despite having discharged their obligations under the said Agreements, were not handed over possession of the suit property. He submitted that the Respondents continued to use and occupy the suit property. He also submitted that the contract ceased to be determinable once the Applicants had cleared the said loan.

34. Mr. Dhond submitted that the contention that the Suit ought to have been filed for specific performance and not for a declaration of ownership, this contention was not only untenable but also plainly contrary to express

agreement between the parties recorded in Clause 19. He pointed out that, under Clause 19, upon receipt of the full and final consideration, the Respondents ceased to have any right, title, interest or claim in the suit property. He therefore reiterated that, in the eyes of law, the Respondents were thereafter no more than trespassers, and, consequently, there could be no question of seeking specific performance against the trespassers.

35.Mr. Dhond further pointed out that as per the agreement between the Parties as recorded in Clause 28, once the Respondents ceased to have any right, title, interest or claim in the suit property, the Agreements for Sale were to operate as Sale Deeds. He submitted that the Suit had, therefore, been correctly filed as seeking a declaration of title. He then, without prejudice to this contention, pointed out that, by prayer clause (b) of the Plaint, the Applicants had also sought a decree directing the Respondents to hand over vacant and peaceful physical possession of the suit property, which relief in substance was in the nature of a prayer for specific performance.

36.Mr. Dhond submitted that, in the facts of the present case, the Respondents' reliance upon the decisions in *Mohammed Raza v. Geeta*, *Ghulam Qadir Mir v. Union Territory of Jammu and Kashmir* and *Rameshchand v. Sureshchand* was misconceived. He submitted that there was no dispute with the general proposition that an Agreement for Sale and a Sale Deed are distinct instruments. He, however, submitted that every contract must be construed according to its terms, not merely by its nomenclature. He reiterated that, in the present case, the parties had themselves expressly agreed, in Clauses 19 and 28, that title to the suit property would pass upon payment of the consideration and that the Agreements for Sale would operate as Sale Deeds.

37.He submitted that in any event, the Respondents had in the Notice of Cancellation itself accepted that the Applicants had paid the outstanding loan amount, and it was therefore too late in the day for the Respondents to contend that the Applicants had backdated the pay-in slips and had attempted to clear the balance sale consideration only after receipt of the

Notice of Cancellation. He submitted that this contention was plainly an afterthought.

38.Mr. Dhond submitted that the Respondents' reliance upon the RBI Circular dated 3rd February 2026 to contend that the banks were not operational on 31st March 2026 was wholly misconceived. He pointed out that the said Circular did not impose any embargo upon banks from undertaking private transactions or transactions that did not involve any governmental or public authority. Rather, the Circular merely directed banks to prioritise transactions involving Government departments and other governmental entities, with regard to the end of the financial year. Mr. Dhond therefore submitted that, far from supporting the Respondents' case, the said Circular made clear that banks were infact open and operational on 31st March 2026, notwithstanding that it was a public holiday. This he submitted supported the Applicant and not the Respondents. He therefore submitted that there was no impediment to the Applicants' Demand Drafts being processed and encashed on that date.

39. Mr. Dhond also submitted that, in light of the material placed before this Hon'ble Court, the contention regarding non-joinder of necessary parties was wholly untenable. He submitted that neither the Banks nor the Society were necessary or proper parties to the Suit and, consequently, the Suit could not be said to be bad in law for non-joinder.

Reasons and conclusion:

40. After having heard Learned Counsel and having considered the rival contentions, the record, and the case law upon which reliance has been placed, I find that the Applicants have made out a case for the grant of interim relief in terms of prayer clause '(a)' of the captioned Application. I say so for the following reasons, viz.

A. *Firstly*, and in my view, crucially, the Respondents have neither denied nor disputed the execution of any of the four Agreements for Sale. The principal defences raised by the Respondents are, broadly, that (i) the Applicants failed to discharge their obligations under the said Agreements; (ii) Clause 7 of the said Agreements gave the Applicants an unfettered right to terminate the said

Agreements; (iii) the Agreements stood validly terminated and (iv) the said Agreements although styled as Agreements for Sale, in substance, were Agreements for Financial Assistance. However, given the plain terms of the said Agreements and the contemporaneous conduct of the parties, I am at this interlocutory stage, unable to accept any of these defences raised by the Respondents as being bonafide.

B. A plain reading of the said Agreements, leaves little room for doubt that the said Agreements were entered into, for the sale of suit property and were not Agreement for Financial Assistance, as stated in the Termination Notice. However, even assuming the said Agreements were of Financial Assistance as claimed by the Respondents, it is indeed befuddling as to why the same would be styled as Agreements for Sale. The only reason that would come to mind for the Parties to act in such a convoluted manner is that the intent of the Respondents were to stave off and/or defeat any impending action that the Satara Sahakari Bank would take in

respect of the suit property under the provisions of the SARFAESI Act, 2002. If this is indeed so, the Respondents must suffer the consequences of actions in the manner that they have chosen to conduct their affairs. No equity will, in my view, lie in favour of any party whose attempt is to camouflage what the Respondents admit is a money lending transaction. In these circumstances, the balance of convenience cannot, therefore lie in favour of the Respondents.

C. A reading of the said Agreements as a whole makes clear that the only obligation of the Applicants was to discharge the loan availed of by Respondent No. 1 from the Satara Sahakari Bank on or before 31st March 2026. The Applicants claim to have discharged the outstanding loan on or before 31st March 2026 whereas the Respondents on the other hand, claim that the loan was cleared only on 4th April 2026 and hence the Applicants failed to perform their contractual obligation within the stipulated time. Therefore in my view, the central issue which really arises for determination, is

whether the Applicants have sufficiently demonstrated that they have on or before 31st March 2026 cleared the said loan.

D. Having considered the material upon which the Applicant has placed reliance, I am *prima facie* satisfied that the Applicants have established that they have cleared the said loan on 31st March 2026. I say so since (i) the Demand Drafts were dated and tendered to the Satara Sahakari Bank on and before 31st March 2026, (ii) the Applicants' bankers, namely HSBC Bank and Axis Bank, have confirmed that the Demand Drafts were issued on 26th March 2026 and 30th March 2026 respectively, (iii) the Satara Sahakari Bank handed over the title documents of the suit property to HSBC Bank and crucially (iv) the Respondents have themselves, in the Termination Notice dated 31st March 2026, specifically acknowledged the fact that the Applicants had “...paid the outstanding dues of the mortgage account with The Satara Sahakari Bank Ltd...”.

E. The Respondents' contention that it was only on 4th April 2026 that the said amount was credited into the loan account and hence the Applicant had failed to comply with the obligation to clear the said loan on or before 31st March 2026, in my view, is not tenable for the following reasons. The *First* is that the Demand Drafts were all tendered on or before 31st March 2026 and hence as per the decision of the Hon'ble Supreme Court in the case of ***Commissioner of Income Tax v. Ogale Glassworks Ltd.***, the date on which the said Demand Drafts were tendered would have to be construed as the date of payment. *Second*, and as noted already in (D) above, is the fact that the Respondents have themselves admitted on 31st March 2026 that the Applicants had paid the outstanding dues of the mortgage account. *Third*, the Demand Drafts having been clearly tendered to the Satara Sahakari Bank on or before 31st March 2026, it would therefore be wholly inequitable to visit the Applicants with the consequences of any subsequent or internal delay in the processing or clearance of the Demand Drafts

by the Satara Sahakari Bank. *Fourth*, the fact that the Satara Sahakari Bank handed over the title documents to the HSBC Bank also clearly evidences that the said loan was cleared by the Applicants. These facts, in my view, plainly belie the Respondents' contention that the pay in slips were backdated or that the Demand Drafts could not have been deposited on 31st March 2026, in view of the RBI Circular dated 3rd February 2026.

- F. As can be seen from a reading of the said Agreements in their entirety, and in particular Clauses 8, 17, 18 and 19, it is clear that upon the Applicants clearing the loan of Respondent No. 1 with the Satara Sahakari Bank, the Respondents would cease to have any right, title or interest in the suit property and were, correspondingly, required to put the Applicants in possession of the suit property. Furthermore, the said Agreements especially provided that they were to operate as Sale Deeds and the execution of a separate formal Sale Deed was at the sole volition of the Applicants. Thus the parties have specifically contemplated and

provided for the manner in which the Respondents' rights in the suit property would come to an end and the manner in which the Applicants were to be put in possession of the suit property, and their rights would crystallise, upon discharge of the loan of Respondent No. 1 with the Satara Sahakari Bank. In these facts, I find that the decisions in the case of *Mohammed Raza v. Geeta, Ghulam Qadir Mir v. Union Territory of Jammu and Kashmir* and *Ramesh Chand v. Suresh Chand* upon which reliance was placed by the Respondents would not apply.

G. I also *prima facie* find that the Respondents' interpretation of Clause 7 is misconceived. Clause 7 cannot be read as a Clause conferring upon the Respondents, an unfettered right to terminate the Agreements at their own discretion, irrespective of the other provisions contained therein. The words "*for any reason whatsoever*" must necessarily be read in the context of the Agreements in their entirety and harmoniously with the remaining Clauses. In this view, to read Clause 7 in the restricted manner that

the Respondents seek to, would defeat the express rights and obligations created by the other provisions of the said Agreements.

H. Also as already noted above, a plain reading of the Agreements in their entirety indicates that, upon the Applicants discharging the outstanding loan and paying the agreed consideration, the Respondents would cease to have any right, title or interest in the Suit Property. Hence once the loan was cleared, the question of resorting to Clause 7 did not arise, nor did the said Agreements so contemplate. Clause 7 therefore cannot, *prima facie*, be construed as preserving in the Respondents, an unfettered right to terminate the Agreements or resile from their contractual obligations even after the Applicants had performed their principal contractual obligation.

I. Also, in my *prima facie* view the Respondents contention that the Applicants ought to have filed a Suit for specific performance is misplaced. The question of the Applicants' entitlement to possession must be considered in the manner that the Parties had

agreed under the said Agreements. The Agreements as already noted, expressly provide that, upon payment of the entire loan, the Respondents would cease to have any right, title or interest in the suit property and would have to put the Applicants in possession of the suit property. The Applicants having established that they have cleared the said loan are therefore justified in contending that the Respondents have no subsisting right in the suit property or to continue to use and occupy the same. The Applicants are therefore justified in equating the Respondents' use and occupation of the suit property as being akin to that of a trespasser.

J. Hence, in these circumstances, the Respondents' continued possession of the suit property, without any legal right as contemplated under the Agreements, would be unauthorized. Hence, there is merit in the contention that the Suit as filed is *prima facie* maintainable and that the Plaintiff was not required to file a separate Suit for specific performance. This contention can be decided at the final hearing of the Suit and would not detain the

Court from granting the interim relief. In any event, prayer clause (a), insofar as it seeks delivery of possession of the suit property to the Applicants, substantially seeks enforcement of the Applicants' contractual rights arising under the Agreements.

K. The objection as to non-joinder of necessary parties is also, in my view, without substance. The Applicants seek no substantive relief against either of the Banks or the Society. The controversy before the Court is essentially between the Applicants and the Respondents concerning the rights and obligations arising under the four Agreements for Sale. The Banks and the Society therefore do not appear to be necessary parties for the effective and complete adjudication of the dispute presently before the Court.

L. On a cumulative consideration of the material on record, I am therefore satisfied that the Applicants have made out a strong prima facie case for the grant of interim relief. I am conscious that in granting the Applicant the relief which is prayed for, the same would entail wresting possession of the suit property at the

interlocutory stage from the Respondents and handing over the same to the Applicants. However, in my view, the facts of the present case warrant such relief to be granted for the reasons set out above. I have already noted that the Respondents have ceased to hold any subsisting right in the suit property on the said loan being cleared. In these facts I find that the Applicants reliance upon the decision in the case of *Rajaram Chauhan Real Estate Pvt. Ltd. v. Mohammed Anwar Kutubuddin Siddiqui*, is apposite.

41. Thus, for the reasons mentioned in paragraph (A) to (L) above, the captioned Interim Application is allowed in terms of prayer clause ‘(a)’ which is reproduced hereinabove.

[ARIF S. DOCTOR, J.]

After pronouncement:

42. After pronouncing the Order, Mr. Naphade, the Learned Counsel appearing on behalf of the Respondent No.1, prayed for a stay to the

Order. Having due regard to the submissions made, the Order shall remain stayed for a period of two weeks from today.

[ARIF S. DOCTOR, J.]