

# HC to SoBo neighbours: Resolve leakage dispute

## Ex-Model Takes Society Fight With Postman Oil Family Member To Court

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**Mumbai:** The Bombay high court has directed former model and jewellery designer Reshma Bombaywala-Lezinska and her neighbour Nadeem Oomerbhoy from the family of the yesteryear's iconic Postman oil brand, to "amicably" resolve their dispute over water leakage from the latter's flat into the former's at Court View, an art deco building next to Oval Maidan in Churchgate.

A bench of Acting Chief Justice Naresh Patil and Justice Girish Kulkarni heard a petition by Bombaywala who lives on the second floor in a 4BHK flat with attached toilet and bath in the five-storey building. Oomerbhoy lives in a 5BHK on the third floor right above her flat. Bombaywala urged that the BMC be directed to abate the nuisance of water seepage to her flat from the flat above.

Her petition said she lives with her husband and two minor boys and since 2013 she has faced "persistent" leakage from Oomerbhoy's flat. The dripping of water has caused heavy damage to the ceiling, internal walls, toilets, bathrooms, paint, furniture and beds and resulted in termite, fungi, black mould and an unhygienic atmosphere, it stated.

The petition further stated that the leakage has made her life and her family "miserable" and the flat has become almost "inhabitable for human beings" and is endangering their lives. "Several times, due to heavy leakage in the toilets, they were not able to use the toilets of their own house," it states.

The petition stated that neither has Oomerbhoy carried out repairs nor allowed her to do so despite various requests. He has refused access to architect, civil and structural engineers to find the source of the leakage. In February 2016, a false ceiling collapsed and the fire brigade was called to

## ROW IN ART DECO STRUCTURE

**Oct 2013** | Ex-model Reshma Bombaywala intimates society about leakage from Nadeem Oomerbhoy's flat above

**Oct 25, 2013** | Oomerbhoy denies leakage, refuses visit to his flat, says leakage from old building pipes

> "You had gutted my entire bathroom in your earlier quest for the source of the leakages and did not even repair it. We will not allow you to cause any further damage to our home," he emails Bombaywala

**Feb 18, 2016** | Part of false ceiling in kitchen collapses. Fire brigade brings down dangerously hanging portions

**Mar 9, 2016** | BMC sends notice to Oomerbhoy to abate nuisance in 15 days

**Apr 28, 2017** | Bombaywala files petition in HC

**Aug 28** | HC issues notice to Oomerbhoy and society

**Sept 24** | HC directs both parties to amiably resolve dispute



the flat. In March 2016, the BMC issued a notice to Oomerbhoy under Section 381 of the BMC Act to abate the nuisance. Since there was no BMC action, Bombaywala moved high court in April 2017 saying under Article 21 (Right to Life) she has a right to a "dignified, healthy, hygienic, peaceful and nuisance free life".

On September 24, her advocate K H Giri said the BMC is bound to take action on the notice. He said Oomerbhoy has refused to allow anyone to enter his flat to carry out repairs. The Court View Cooperative Housing Society's advocate Jay Bhatia said it is trying to resolve the dispute. "He does not allow anyone to enter the flat. Be it an engineer or a structural engineer," said Bhatia. The judges questioned the society's helplessness. "What is the purpose of the society? Should we appoint an administrator?" asked Justice Patil. Oomerbhoy's advocate Piyush Raheja said, "The petitioner has carried out reno-

vations in her house as a result of which her ceiling is affected." He said his client will allow inspection of his flat.

In their order, the judges said the "parties must resolve internal disputes amicably" with the intervention of the managing committee. "Unless the members of the society cooperate with each other and resolve their day-to-day disputes in a cordial manner, it will be difficult for them to reside in their respective accommodation peacefully in future," they added.

The judges directed that both "would allow inspection to be conducted by an engineer and an architect appointed by the society within two weeks". In case the managing committee finds Oomerbhoy or Bombaywala are not cooperating "it is entitled to take appropriate steps in accordance with law".

"Instruct your client to cooperate. These are all internal matters," Justice Patil told Oomerbhoy's advocate.

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