

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY**  
**NAGPUR BENCH, NAGPUR.**

**CIVIL APPLICATION [CAO] NO. 191/2020**  
**IN CIVIL APPLICATION [CAS] NO. 268/2019**  
**IN SECOND APPEAL ST.NO. 9153/2017.**

Link House Industries Ltd. and another.

**-VERSUS-**

Narayan Sheshrao Wankhede and others.

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Office notes, Office Memoranda of  
Coram, appearances, Court's orders  
or directions and Registrar's orders.

Court's or Judge's Orders

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None for the appellant.

Shri S.A. Chaudhari, Advocate for Respondent Nos. 1 & 2.

Shri P.D. Meghe, Advocate for Respondent No.4.

**CORAM : VINAY JOSHI, J.**

**DATE : DECEMBER 04, 2020.**

Heard.

2. This Civil Application is taken out by Original Plaintiff Nos. 1 and 2 (respondent nos. 1 and 2) seeking modification of order dated 14.11.2019 passed in Civil Application Nos.268/2019 along with 483/2019. While deciding both applications, this Court has

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permitted plaintiff nos. 1 and 2 at one side and defendant no.4 Arun on another to withdraw the amount in equal proportion. Plaintiffs are seeking modification of said order by stating that as per the decree passed in Regular Civil Appeal No.406/2015, both plaintiffs should get 1/3rd share each and defendant no.4 should get 1/3rd share in the amount.

3. Perusal of the judgment and decree passed in Appeal, it is clear that the First Appellate Court directed that plaintiffs and defendant no.4 shall get the decretal amount. There is no specific directions that plaintiffs together shall get 50% of amount and rest 50% by defendant no.4. Plain reading of the order simply and unambiguously convey that each plaintiff i.e. plaintiff no.1, plaintiff no. 2 and defendant no.4 shall get the decretal amount, meaning thereby each one shall get 1/3rd amount.

4. The plaintiff no.1 is holding power of attorney of his sister i.e. plaintiff no.2, and

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therefore, he has sought for withdrawal of the amount on behalf of both i.e. their joint entitlement is to the extent of 2/3rd share.

5. Defendant no.4 who as per decree is entitled to 1/3rd share, is not entitled for 50% share i.e. in equal proportion, as stated earlier. In view of above, the order dated 14.11.2019 is modified and it is made clear that plaintiffs i.e. plaintiff no.1 – Narayan and plaintiff no.2 Ku. Bulu are entitled to withdraw 1/3rd share each, as well as defendant no.4 Arun is also entitled to withdraw his 1/3rd share. Office to disburse the amount along with accrued interest thereon, in the above referred proportion.

6. By consent it is recorded that the arrangement regarding disbursement as ordered above is only in respect of an amount of Rs.5 lakhs deposited in Second Appeal vide order dated 23.06.2017.

7. Learned Counsel for respondent no.4 has brought to the notice of this Court that despite

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order dated 05.12.2019, passed in Civil Application No. 965/2019, an amount of Rs.4,10,147/- along with interest has not been disbursed to defendant no.4 (respondent no.4) Arun. Learned Counsel appearing for respondent nos. 1 and 2 has no objection for such disbursement. Office is therefore, directed to disburse the said amount along with interest accrued thereon, if any, within a period of two weeks, provided necessary compliance has been made by the parties.

8. Civil Application is disposed of accordingly.

**JUDGE**

Rgd.p