

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
INTERIM APPLICATION NO.1999 OF 2019
IN
APPEAL NO.339 OF 2010
IN
NOTICE OF MOTION NO.1957 OF 2006
IN
SUIT NO.2435 OF 2005**

Jaya Patel	...	Applicant
and		
Sudha Chowgule	...	Appellant
<i>Versus</i>		
Indu Parmanand Patel and Ors.	...	Respondents

Mr. Ashish Kamat with Mr. Varun Satiya i/by Crawford Bayley and Co., for Appellant.

Mr. Jamshed Master with Ms. Rakhika Notiani, Mr. Declan Fernandez i/by Vigil Juris, for Applicant in IA 1999 of 2019 and for Respondent Nos.1 and 2 in Appeal.

Dr. Birendra Saraf, Senior Advocate with Ms. Soniya Putta, Ms. Chinmayee Das i/by J.S.Solomon for Administrator / Receiver of Assets of Respondent No.5.

**CORAM: S.J. KATHAWALLA &
MILIND N. JADHAV, JJ.**

DATE: 7th SEPTEMBER, 2021

P.C.:

1. By the above Interim Application, the Applicant interalia seeks the following reliefs :

“(a) that pending the hearing and final disposal of the above appeal, this Hon’ble Court may be pleased to direct the administrator / Receiver appointed by this Hon’ble Court of the assets of Respondent No.5 Company or any other person that this Hon’ble Court may deem fit and proper to enter into Leave and License Agreement with the Consulate General of Republic of

Iraq in respect of Flat bearing No.9 (South Side) on the 9th Floor of Kanchanjunga Building, situated at 72, Peddar Road, Mumbai – 400 026 and to carry out the repairs / renovations work of the said flat premises and further to deposit the Leave and License fees so received from the said Consulate with the Administrator / Receiver or in this Hon'ble High Court after deducting the expenses incurred for repairs / renovation works, till the final outcome of this appeal.

(b) In the alternative, and in the event this Hon'ble Court for any reason whatsoever comes to the conclusion that the Applicant is not entitled for any reliefs, then in that event, this Applicant prays for an expeditious hearing of the Appeal on day to day basis so as to minimize the loss of the revenue that is being caused to the Respondent No.5 Company;"

2. In the year 2016, Notice of Motion (L) No.2532 of 2016 was taken out in the above Appeal by the present Applicant seeking the same reliefs which are sought in the present Interim Application. The same was rejected by an order dated 13th January, 2017, which reads thus :

"1.We do not wish to alter the order passed by the Division Bench while admitting the appeal. There are no changed circumstances, save and except that the property, which is subject matter of this appeal, is stated to be in vacant state. Given the nature of the dispute, we do not think that the Division Bench order needs to be altered. The Notice of Motion is accordingly dismissed."

3. Though Mr. Saraf, learned Senior Advocate appearing for the Administrator / Receiver states that the above Interim Application is taken out by the Applicant in view of the changed circumstances and the reliefs sought by the

Applicant ought to be granted, we are of the view that the Appeal itself should be heard at this stage. However, the learned Advocate for the Applicant seeks time to prepare himself. In view thereof, stand over to 15th September, 2021 at 2.30 p.m. for hearing and final disposal.

4. The Interim Application is accordingly dismissed.

(MILIND N. JADHAV, J.)

(S.J.KATHAWALLA, J.)