

Dusane

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
INTERIM APPLICATION NO.10558 OF 2022
IN
SECOND APPEAL NO.34 OF 2021**

Iqbal Mahammad Hajoo & Ors. ...Applicants

V/s.

Shaukat Mahammad Hajoo & Ors. ...Respondents

**WITH
INTERIM APPLICATION NO.30283 OF 2022
IN
SECOND APPEAL NO.34 OF 2021**

Akbar Mahammad Hajoo ...Applicant

V/s.

Shaukat Mahammad Hajoo & Ors. ...Respondents

**WITH
INTERIM APPLICATION NO.19892 OF 2022
IN
SECOND APPEAL NO.34 OF 2021**

Noorjahan Rafik Bandiwale Maidan ...Applicants
name Noorjahan Mahammad Hajoo
& Ors.

V/s.

Shaukat Mahammad Hajoo & Ors. ...Respondents

**WITH
INTERIM APPLICATION NO.19895 OF 2022
IN
SECOND APPEAL NO.34 OF 2021**

Najma Mahammad Nakhava & Ors. ...Applicants

V/s.

Shaukat Mahammad Hajoo & Ors. ...Respondents

**WITH
INTERIM APPLICATION NO.30282 OF 2022
IN
SECOND APPEAL NO.34 OF 2021**

Hafija Mahamad Hajoo & Ors. ...Applicants

V/s.

Shaukat Mahammad Hajoo & Ors. ...Respondents

Mr. A.S. Khandeparkar a/w Mr. Rohit P. Mahadik,
Mr. Rushikesh G. Bhagat i/by Khandeparkar &
Associates for Appellants/

Mr. Shreepad Murthy i/by Mr. Abhishek Patil for
Applicants.

Mr. Ramesh Cheulkar for Respondent No.13 in all
IAs.

**CORAM: MADHAV J. JAMDAR, J.
DATE: 22nd DECEMBER, 2022**

P.C.:

1. The prayers in all these Interim Applications are similar with some changes. For the purpose of convenience, prayers in Interim Application No. 30282 of 2022 are set out hereinbelow:

"(a) That this Hon'ble Court be pleased to permit the Prop. Respondent to be added as Respondent no. 13 in the present Interim Application;

(b) That this Hon'ble Court be pleased to direct the Civil Court, Senior Division, Ratnagiri to accept the property i.e. Survey no. 94, village- Mauje Donivade, admeasuring 145.73 sq. mtrs. of the Prop. Respondent Ashok Anant Honale, to be taken as surety as an appropriate security for withdrawal of the amount as per the order dated 1st March 2021 in Interim Application No. 214 of 2021 and 215 of 2021 in Second Appeal No. 34 of 2021;

OR

(c) In the alternative this Applicant (Ori. Respondent No.7) be allowed to withdraw the said amount Rs.8,71,630.20 by giving personal bond and without any surety;

(d) For cost."

2. The Applicant in I.A. No.30282 of 2022 who is original Respondent no.7 is seeking withdrawal of the amount as permitted by order dated 1st March 2021 passed by learned Single Judge in I.A. No. 214 of 2021 with I.A. No. 215 of 2021 in Second Appeal No. 34 of 2021. By said order, liberty was given to withdraw the amount deposited on account of acquisition of properties as agreed in the Consent Terms, which were filed in those IAs.

3. Mr. A.S. Khandeparkar, learned Counsel appearing for the Appellant state that if adequate security is given then there is no objection for withdrawal of the amount in terms of said order

dated 1st March 2021. Mr. Murthy, learned Counsel appearing for the Applicant i.e. original Respondent no. 7 in IA No. 30282 of 2022 and also appearing for all the Applicants in respective applications and Mr. Ramesh Cheulkar, learned Counsel appearing for the added respective Respondent no.13 in all the respective Interim Applications states that the security given is adequate. Mr. Khandeparkar, the learned Counsel of the Appellant does not dispute the said statement.

4. The relevant details of all these Interim Applications are set out hereinunder in tabular form:

INTERIM APPLICATIONS BY RESPONDENTS :

Sr. No.	IA NO. IN SA 34 OF 2021	Name of Applicants/ Respondent no. in SA	Name of sureties (Respondent no. 13 in respective IAs)	Amt allowed to be withdrawn as per order dt. 1/3/2021	Valuation of property given as security by Respondent no. 13.
1	10558/ 2022	Iqbal Mahammad Hajoo (Respondent no.3)	Moh. Hanif Mohd Sayyed	17,43,260.40	23,29,538.641
2	30283 / 2022	Akbar Mahammad Hajoo (Respondent no.5)	Deepak Kashiram Chavan	17,43,260.40	20,19,034.384
3	19892/ 2022	Noorjahan Rafik Bandiwale (Respondent no.1)	Abdul Hamid Ahmed Khatib	8,71,630.20	21,91,216.192
4	19895/ 2022	Najma Mahamad Nakhava (Respondent no.2)	Sneha Sanjay Lingayat	8,71,630.20	30,84,555.056
5	30282/ 2022	Hafija Mahammad Hajoo (Respondent no. 7.)	Ashok Anant Honale	8,71,630.20	16,45,524.868

5. In all these Interim Applications, the added Respondent no.13 is the owner of property which is given as security for allowing withdrawal of amounts by the respective Respondent. Respective Respondent no. 13 in all these applications have filed affidavit confirming that the respective Respondent no. 13 is the sole owner of the property, setting out the valuation of the property and further mentioning that the said property is offered as security for withdrawal of the amount by the Applicant, as per order passed by this Court and the said properties offered as securities will not be disposed of and no third party interest will be created. The statements made in the said respective Affidavits by respective Respondent no.13 are accepted as undertaking given to this Court.

6. In view of the said affidavit and undertaking of added Respondent no.13, there is no impediment in allowing prayers of withdrawal.

7. For above reasons and subject to above, the Interim Application Nos.10558 of 2022, 19892 of 2022 and 19895 of 2022 are allowed in terms of prayer clause (**a**). The Interim Application Nos.30282 of 2022 and 30283 of 2022 are allowed in terms of prayer clause (**b**).

8. Interim Applications are disposed of in above terms.

9. The learned Reference Court in which the amounts are deposited is requested to allow withdrawal expeditiously by taking into account, earlier withdrawal of amount, if any.

(MADHAV J. JAMDAR, J.)