

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

**INTERIM APPLICATION NO.1765 OF 2022
IN
APPEAL FROM ORDER NO.86 OF 2015**

Harish Gopal Amin ...Applicant

In the matter between

Kamran Sadruddin Allarakhia ...Appellant

Versus

Harish Gopal Amin and Ors. ...Respondents

...

Mr. Sajid Shamim i/b. M/s. Shamim and Co. for the Applicant.

Mr. Y.E. Moman i/b. Ms Manisha Gawde for the original Appellant.

CORAM: SMT. ANUJA PRABHUDESSAI, J.

DATED : 9th DECEMBER, 2022.

P. C. :-

1. By this application the Respondent No.1 has sought withdrawal of Rs.68,82,540/- deposited by the Bank before this Court pursuant to order of the Hon'ble Supreme Court dated 28/04/2017 passed in Special Leave to Appeal No.9728 of 2016.

2. The Appellant had filed a suit under Section 6 of the Specific Relief Act with an application for interim relief during the pendency of the suit. Aggrieved by dismissal of the application by order dated 17/01/2015, the Appellant has filed this appeal.

3. By order dated 16/02/2016 this Court (Coram : R.D. Dhanuka, J.) set aside the impugned order and appointed a Court Receiver, who was put in symbolic possession of the suit property. The Court Receiver was directed not to dispossess Respondent No.3-Bank from the suit premises, who was put in possession after the Appellant was dispossessed from the suit premises.

4. Both parties had challenged the said order before the Hon'ble Supreme Court in SLP(C) Nos.9923 of 2016 and SLP (C) No.16523 of 2016. The Hon'ble Supreme Court did not interfere with the order of this Court and accordingly dismissed the petitions and further directed that 75% of the rent, which was being paid by the Bank to Harish Gopal Amin should be directly deposited before the High Court until the disposal of the suit. The Hon'ble Supreme Court has not given liberty to either of the parties to withdraw the said amount. Consequently, the Applicant-Respondent No.1 cannot be permitted to withdraw 75% of the amount deposited before this Court pursuant to the order of the Hon'ble Supreme Court.

5. Hence, the application is dismissed.

(SMT. ANUJA PRABHUDESSAI, J.)