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IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

**FIRST APPEAL NO. 579 OF 2022
WITH
INTERIM APPLICATION NO. 4373 OF 2021
IN
FIRST APPEAL NO. 579 OF 2022**

Parvez Ardeshir Buzorg and others

.....Appellants

V/s.

Hadokht Faredon Behram Kermanian and others

.....Respondents

Mr. Tejas Deshpande Advocate for the Appellant/Applicant.

Mr. Tushar Bhavsar i/b Ms. Neha Choksi for Respondent Nos. 4(a) to 4(d).

Ms. Tanya Goswami AGP for the State.

Mr. Ajay Malvankar Court Receiver with Gazala Khan, Section Officer.

CORAM : GAURI GODSE, J.

DATE : 30th AUGUST, 2022.

P.C.

1. Heard. Admit.

2. Mr. Bhavsar waives service on behalf of Respondent nos. 4(a) to 4(d).

Ms. Goswami waives service on behalf of Respondent no. 7. Call for Record and Proceedings.

Interim Application No. 4373 of 2021:

1. This Application is filed by Appellant/original Plaintiff praying for releasing bank guarantee submitted by them during pendency of the Suit. Application also prays for direction to the office of the learned Court Receiver to return to the Appellant security deposit of Rs. 48,000/- as provided pursuant to order dated 25th March 1987 alongwith accrued interest over the security deposit from 25th March 1987 to the date of filing this Application. This Application is filed way back on 16th July 2021. Impugned Judgment in the Appeal is passed on 30th April 2015 by the impugned Judgment and Order. Suit of the present Appellant is dismissed and the Court Receiver appointed during the pendency of the Suit is discharged.

2. So far as this present Application is concerned, there is no dispute that bank guarantee was given by the present Applicant/Appellant pursuant to the orders passed during the pendency of the Suit. There is also no dispute that security amount was given by present Applicant/Appellant during the pendency of the Suit as per orders which were passed during pendency of the Suit. There is nothing on record shown to me which can adversely affect any of the Respondents by grant of prayer clause (a) and (b). It is also necessary to

note that Appellant has not filed any Application for any interim relief during pendency of this First Appeal. Hence, I see no reason for keeping this present Application No. 4373 of 2021 pending.

3. In such circumstances, Application is allowed in terms of prayer clause (a) and (b).

4. It is needless to mention that in case any of the parties to the Appeal are affected and/or require any kind of directions with respect to the amounts that are lying with the Court Receiver, parties will be at liberty to file appropriate Application for seeking necessary directions. It is made clear that since Suit is dismissed way back in the year 2015, it will be in the interest of justice to expedite the process of returning the amount as prayed in the present Application. Amount will be returned in accordance as per applicable Rules.

5. Application stands disposed of.

[GAURI GODSE, J.]