



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

**INTERIM APPLICATION NO.4252 OF 2023
IN
FIRST APPEAL NO.579 OF 2022**

Mr. Parvej Buzorg ... Applicant

In the matter between :

Mr. Parvej Buzorg
And Others ... Appellants
Versus
Faredoon Behram Karmanian
And Others ... Respondents

**WITH
INTERIM APPLICATION NO.4604 OF 2023
(Not on Board)
IN
FIRST APPEAL NO.579 OF 2022**

1. Menucher Hormazdiar Jamsheedian
And Others ... Applicant/
Respondent Nos.4a to 4d

In the matter between :

Mr. Parvej Ardeshir Buzorg
And Others ... Appellants (Org.Plaintiffs)
Versus
1. Hadokht Faredoon Behram
Kermanian And Others ... Respondents

Mr. Rishikesh S. Kekane for the Applicant/Appellants.

Mr. Bhavesh Devkar i/b V.J. Juris for Respondent nos.1 to 3, 4 and 5.

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

Ms. Tanya Goswami AGP for Respondent No.6-State.

Mr. S.K. Dhekale, Court Receiver.

CORAM : NITIN B. SURYAWANSHI, J.

DATE : 27 OCTOBER 2023

P.C. :

. By Interim Application No.4252 of 2023, Applicants/Appellants, who are senior citizens, aged 85 and 72 years, respectively, seek withdrawal of amount of 25 per cent share of the Appellants in the royalty amount with interest, which is lying with Court Receiver in Banks and FDs. Statement of Accounts is placed on record along with the Interim Application.

2. By Interim Application No.4604 of 2023, Applicants/Respondent Nos.4a to 4d seek a declaration that the Appellant, Respondent Nos.1 to 3, 5 and 6 and the Applicants are all legal heirs and representative of erstwhile suit firm and have equal rights to the royalty amount deposited with the Court Receiver. Further direction is sought that Respondent Nos.1 to 3, 5 and 6 be directed to pay the

Applicants a sum of Rs.4,49,104/- with interest at the rate of 18 per cent per annum till payment and / or realization.

3. Heard learned Counsel for the respective parties and the Court Receiver. Parties agree that all are entitled for equal rights in the royalty amount deposited with the Court Receiver. Court Receiver submits that from the above said royalty amount deposited with him, as per Rule 591 of Original Sides Rules, 8 per cent amount is required to be deducted towards charges of Court Receiver.

4. In the backdrop of the aforesaid fact, the following Order is passed.

- (i) Court Receiver is permitted to deduct his 8 per cent charges from the royalty amount deposited with him.
- (ii) After deduction of 8 per cent amount of Court Receiver, Applicants in Interim Application No.4252 of 2023 are permitted to withdraw 25 per cent amount of their share within eight days from the date of uploading of this Order.
- (iii) Court Receiver shall permit the

Applicants/Respondent Nos.4a to 4d to withdraw the amount falling to their share within eight days from the date of uploading of this Order.

- (iv) The claim of the Applicants in Interim Application No.4604 of 2023 for the amount of Rs.4,49,104 will be considered at the time of hearing of the First Appeal and / or Interim Application No.1800 of 2019.
- (v) Interim Application Nos.4252 of 2023 and 4604 of 2023 in First Appeal No.579 of 2022 are disposed of accordingly.

(NITIN B. SURYAWANSHI, J.)