

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

CIVIL APPLICATION NO.1800 OF 2019

IN

FIRST APPEAL NO.579 OF 2022

Mrs. Hadokht Fareddon Behram Kermanian

& Ors.

: Applicants

IN THE MATTER BETWEEN

Parvez Ardeshir Buzorg & Ors.

: Appellants

Vs.

Mrs. Hadokht Fareddon Behram Kermanian

& Ors.

: Respondents

WITH

INTERIM APPLICATION NO.4604 OF 2023

(NOT ON BOARD)

IN

FIRST APPEAL NO.579 OF 2022

Menucher Hormazdiar Jamsheedian & Ors.

: Applicants/

Respondents No.4a to 4d

IN THE MATTER BETWEEN

Parvez Ardeshir Buzorg & Ors.

: Appellants

(Org. Plaintiffs

Vs.

Mrs. Hadokht Fareddon Behram Kermanian

& Ors.

: Respondents

Adv. Mr. Vijay B. Dhingreja i/by VJ Juris, for Respondent Nos.1 to 3 & 5 & 6.

Adv. Mr. Tushar Bhavsar a/w Manisha Karka i/by Ms. Neha Choksi, for Respondent Nos.4a to 4d.

Mrs. S. S. Patil, SO a/w Mrs. D. M. Pore, ASO, Court Receiver -present.

CORAM : KISHORE C. SANT, J.

DATE : 2nd APRIL, 2024

PC. :

1. Heard.
2. This Application is by the Applicants for a direction to the Receiver to release of the amount of 25 per cent of the amount deposited with the Court Receiver of the royalty amount that is lying with the Court Receiver in the following conditions. 25 per cent to Applicant Nos.1 & 3 & 25 per cent to Applicant Nos.4 & 5.
3. He submits that this Court has already passed an order on Interim Application No.4252 of 2023 in the Appeal directing the Court Receiver to permit the Applicants therein to withdraw 25 per cent of the amount of their share within eight days. There is no dispute that Applicant Nos.1 to 3 and 4 & 5 are entitled to receive 25 per cent share each from the amount that is lying the Court Receiver towards royalty by deducting 8 per cent charges of the Receiver.
4. The present Application thus can be disposed of conveniently by permitting Applicants Nos.1 to 3 to withdraw 25 per cent and 4 & 5 to

withdraw 25 per cent of the amount of royalty by deducting 8 per cent charges of the royalty. Cheque for Applicant No.5 be drawn in her maiden name i.e. Dilruba Firoze Kermanian. So far as the amount of Rs.1,17,000/- paid as security deposit is concerned, the Applicant Nos.1 to 3 and 4 & 5 will be entitled to receive total 2/3 of the said amount and Respondent Nos.4(a) to 4(d) in the Appeal shall be entitled to receive 1/3 of the amount of Rs.1,17,000/- .

5. With this the Application can be disposed of. Both the parties do not have any objections to dispose of the Application in above terms.

6. The Applicants are at liberty to take inspection of final statement so as to ascertain exact amount.

7. The said exercise be done within 3 weeks from today.

8. The Civil Application No.1800 of 2019 stands disposed of.

9. So far as Application No.4604 of 2023 for the amount of Rs.4,49,104/- i.e. the claim amount is concerned. Respondent Nos.1, 2, 3, 5 & 6 in this Appeal are at liberty to withdraw the said amount by giving an undertaking to the Court that in case the decision in appeal goes against them in respect of this amount, they shall re-deposit the amount along with interest within 12 weeks from the date of said decision at the rate of 9 per cent per annum.

10. With this Interim Application No.4604 of 2023 also stands disposed of.

11. Interim Application No.4604 of 2023 to be heard at the time of final hearing which is wrongly shown as disposed of in earlier order

(KISHORE C. SANT, J.)

(Corrected pursuant to speaking to minutes of order dated 23rd April, 2024.)