

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION**

**APPEAL NO.86 OF 2024
IN
INTERIM APPLICATION (L) NO.8791 OF 2022
IN
TESTAMENTARY PETITION NO.377 OF 2008**

Yatin Hariram Ruparel : Appellant/
(Org.Applicant/Petitioner No.1)
Vs.

Ashwin Hariram Ruparel & ors. : Respondents.

**WITH
INTERIM APPLICATION NO.1341 OF 2024
IN
APPEAL NO.86 OF 2024
IN
INTERIM APPLICATION (L) NO.8791 OF 2022
IN
TESTAMENTARY PETITION NO.377 OF 2008**

Yatin Hariram Ruparel : Applicant (Org.Appellant)

In the matter between.

Yatin Hariram Ruparel : Appellant/
(Org.Applicant/Petitioner No.1)
Vs.

Ashwin Hariram Ruparel & ors. : Respondents.

Mr. Shailesh Naidu i/by Omkar Kulkarni for the Appellant.
Mr. Kiran Bapat, Senior Advocate i/by Mr. Viraj Jadhav for
Respondent No.1.

Mr. Rahul Narichania, Senior Advocate a/w Mr. Avesh Harshan i/by Bose & Mitra & Co. for Respondent No.2.

Dr. Abhinav Chandrachud a/w Adv. Khushboo Rupani i/by HSA Advocates for Respondent Nos. 3 to 5.

**CORAM : DEVENDRA KUMAR UPADHYAYA, CJ. &
ARIF S. DOCTOR, J.**

DATE : 02nd MAY, 2024

P.C. :

1. The present Appeal impugns a common order dated 21st March 2024 passed in Interim Application (L) No.8791 of 2022 ("the said Interim Application") along with various other Interim Applications that have been filed by the parties to the Appeal.

2. Mr. Naidu, Learned Counsel appearing on behalf of the Appellant, points out that what has been sought for in the said Interim Application is for withdrawal of certain amounts from the estate of the deceased, which according to him, are undisputed. He submits that therefore the said Interim Application ought to be heard and decided expeditiously since the same would not prejudice any of the parties to the proceedings. Mr. Naidu

submits that it is thus that the Appellant had filed the present Appeal and has taken out Interim Application No.1341 of 2024 in which following reliefs have been sought :-

"(a) pending the hearing and final disposal of this Appeal this Hon'ble Court be pleased to direct to hear and decide Interim Application (LO) No.8791 of 2022 filed in Testamentary Petition No.377 of 2008 within such stipulated period as this Hon'ble Court may deem fit and proper."

3. *Per contra* both Mr. Narichania, Learned Senior Counsel appearing on behalf of Respondent No.2 and Mr. Chandrachud, Learned Counsel appearing on behalf of Respondent Nos.3 to 5, have opposed the present Appeal. They have invited our attention to an order dated 9th March 2022 passed by a Division Bench of this Court (S. J. Kathawalla & Milind N. Jadhav, JJ.) which specifically directs that Interim Application No.392 of 2021, Interim Application (L) No.15054 of 2021 and Interim Application (L) No.3806 of 2022 are to be heard and disposed off expeditiously, preferably within a period of three weeks from the date of the said order. Basis this, they submit that the question of hearing the said Interim Application

as sought for by the Appellant out of turn does not arise. They additionally submit that in any event all the Interim Applications have now been placed for hearing on 20th June 2024. They both also dispute the Appellant's contention that there is any amount which is admittedly payable to the Appellant. Basis this, they submit that the present Appeal deserves to be dismissed.

4. We have heard Learned Counsel and find that Learned Judge has placed all the Interim Applications for hearing on 20th June 2024. We have also noticed that by the order dated 9th March 2022 this Court had requested the Learned Judge to hear and dispose of Interim Application No.392 of 2021, Interim Application (L) No.15054 of 2021 and Interim Application (L) No.3806 of 2022 as expeditiously as possible and preferably within three weeks from the date of the said order. We find that the claim of the Appellant in the said Interim Application is hotly disputed by the Respondents.

5. Hence for all these reasons we do not find any merit

in the Appellant's contention that the said Interim Application should be heard and decided out of turn. We thus dispose off the present Appeal by requesting the Learned Judge to endeavour to dispose off all the pending Interim Applications as expeditiously as possible and preferably within a period of three months from 20th June 2024 i.e. the next date on which the said Interim Applications are listed, subject to however the exigencies of the board.

6. In view of disposal of the Appeal, Interim Application No.1341 of 2024 does not survive and the same is accordingly disposed of.

(ARIF S. DOCTOR, J.)

(CHIEF JUSTICE)