

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

INTERIM APPLICATION NO.1394 OF 2025
IN
FIRST APPEAL NO.519 OF 1998
WITH
INTERIM APPLICATION NO.1396 OF 2025
IN
FIRST APPEAL NO.519 OF 1998

SMITA
RAJNIKANT
JOSHI

Digitally signed
by SMITA
RAJNIKANT
JOSHI
Date: 2025.09.26
18:35:35 +0530

Rakesh B. Sharma & Others	..	Applicants.
In the matter between		
1(a) Rakesh B. Sharma & Others	..	Appellants.
v/s.		
Rizvi Builders	..	Respondent.

Adv. R. R. Sharma, for the Applicants/Appellants in IA No.1394 of 2025 and IA No.1396 of 2025.

Adv. Roy Varghese with Adv. Arun Ivatnri i/b. Zakir Basha, for the Respondent in IA No. 1394 of 2025 and IA No.1396 of 2025.

CORAM: FIRDOSH P POONIWALLA,J.
DATE : 25th SEPTEMBER, 2025.

P C:-

1 By an Order dated 7th March, 2024 passed in Civil Application No.2858 of 2019 in the present First Appeal, the said Civil Application was allowed and the First Appeal was restored subject to payment of costs of Rs.1,00,000/- to be deposited in this Court within a period of two weeks.

2 It is the case of the Appellants/Applicants that the said costs of Rs.1,00,000/- have been deposited in this Court within a period of two weeks.

3 On 7th March, 2024, a second Order was passed in the Appeal placing the Appeal for hearing on 17th April, 2024 at 2.30 p.m. Further, the said Order directs that the Appellants are permitted to deposit an amount of Rs.75,000/- per month in the Trial Court.

4 Today, Interim Application No. 1394 of 2025 has been moved for setting aside the second Order dated 7th March, 2024.

5 On perusal of the second Order dated 7th March, 2024, the same shows that the said Order was passed in the presence of the Advocate for the parties, including the Advocate for the Appellants. It is, therefore, not an ex-parte order, as claimed, and, therefore, this Court cannot set aside the said Order. The Appellants are at liberty to adopt such other proceedings, as may be available to them in law, for challenging the second Order dated 7th March, 2024.

6 For all these reasons, the Interim Application is disposed of. There will be no order as to costs.

7 Place Interim Application No.1396 of 2025 on 9th October, 2025.

(FIRDOSH P. POONIWALLA,J.)