

IN THE HIGH COURT OF JUDICATURE AT BOMBAY  
CIVIL APPELLATE JURISDICTION  
WRIT PETITION NO.2478 OF 2025

|                       |               |
|-----------------------|---------------|
| Hari Karamshi Thakkar | ...Petitioner |
| <i>Versus</i>         |               |
| Sunil Naraindas Karia | ...Respondent |

WITH  
WRIT PETITION NO.2479 OF 2025

|                                    |                |
|------------------------------------|----------------|
| Hasmukh Thakkar (since deceased)   |                |
| 1a. Bharati Hasmukh Thakkar & Ors. | ...Petitioners |
| <i>Versus</i>                      |                |
| Sunil Naraindas Karia              | ...Respondent  |

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Mr. Pranil Sonawane a/w. Mr. Deepak Hariasra and Ms. Vedashree Phadke, for the Petitioner.

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CORAM: MADHAV J. JAMDAR, J.  
DATED : 26<sup>th</sup> FEBRUARY 2025

P. C.:

1. Heard Mr. Pranil Sonawane, learned Counsel appearing for the Petitioners. He states that the Respondent has been served and that affidavit of service will be filed within a period of one week.
2. In spite of service, none appears for the Respondent.

3. By the present Writ Petitions filed under Article 227 of the Constitution of India, the challenge is to the legality and validity of the order dated 30<sup>th</sup> January 2025 passed on the Application seeking time to file affidavit-in-rejoinder. The order which is impugned in Writ Petition No.2478 of 2025 reads as under:

*“Perused application of say, heard both side. It is duty of Applicant to file Stay Application alongwith Valuation Report Applicant not filed Valuation Report. Reply was received to Applicant 27<sup>th</sup> January, 2025 but till today, he has not filed rejoinder. There is no medical certificate or any document on record to show alleged illness. Hon’ble Bombay High Court directed to decide stay application as expeditiously. In such circumstances if application allowed on cost Rs.2,000/- it will meet end of justice. O. Allowed on cost of Rs.2,000/- only.”*

Similar order is impugned in companion Writ Petition No.2479 of 2025.

4. Mr. Pranil Sonawane, learned Counsel appearing for the Petitioner, on instructions of the Petitioner, states that without prejudice to the rights and contentions of the parties and subject to order which will be passed by the learned Appellate Court in stay application, the Petitioner will deposit an amount of Rs.10,000/-

per month on or before 10<sup>th</sup> day of each month before the learned Trial Court. On instructions, he further states that from 6<sup>th</sup> December 2023 till 28<sup>th</sup> February 2025 aggregate amount of arrears at said rate of Rs.10,000/- per month comes to Rs.1,50,000/- in each of the Appeals. He states that an amount of Rs.75,000/- in each of the Appeals will be deposited before the learned Trial Court on or before 12<sup>th</sup> March 2025. He states that balance amount of Rs.75,000/- in each of the Appeals will be deposited before the learned Trial Court on or before 2<sup>nd</sup> April 2025. He further states that rejoinder will be filed along with Valuation Report before the Appellate Court within a period of three weeks from today.

5. It is clarified that said payment is just an ad-hoc payment and the same is to be paid without prejudice to the rights and contentions of both the parties.

6. In view of the above statement of Mr. Pranil Sonawane, made on the instructions of the Petitioners, which are accepted as undertakings given to this Court, the learned Appellate Court to suitably adjourn the Stay Application in said Appeal No.183 of

2025 and Appeal No.184 of 2025 beyond 19<sup>th</sup> March 2025, to enable the Petitioner to file rejoinder along with the Valuation Report.

7. Accordingly, the order dated 30<sup>th</sup> January 2025 is modified to above extent. It is clarified that imposition of cost of Rs.2,000/- as directed by the learned Appellate Court is maintained and the same be paid within a period of ten days from today.

8. Till the decision of Stay Application filed in Appeal No.183 of 2025 and Appeal No.184 of 2025 execution of eviction decree dated 16<sup>th</sup> December 2023 shall remain stayed, subject to deposit of payment, as directed herein above.

9. It is further clarified that this order has been passed without prejudice to the rights and contentions of both the parties and therefore notice has not been issued to the Respondent. However, if the Respondent is aggrieved by this order, the Respondent is at liberty to file appropriate Interim Application for modification/recall of this order.

**10.** Accordingly, both the Writ Petitions are disposed of in above terms with no order as to costs.

**[MADHAV J. JAMDAR, J.]**