

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

First Appeal (st) No. 5261 of 2025
With
Interim Application No. 1884 of 2025
(Delay)
With
Interim Application No. 1885 of 2025
(Stay)
With
Interim Application No. 1886 of 2025
(Intervention)
With
Appeal from Order No.86 of 2025

Mukesh Hiralal Mehta
R/at 4t floor, Vandana Building,
N.S.Road No.4, JVPD Scheme,
Vile Parle (Weest), Mumbai 400 056 ... Appellants

V/s.

1. Daksha Ajay Khatlawala
2. Ajay Manharlal Mehta
G-2, Unique Apartments.
3. Bank of Baroda
Vile Parle (West), Mumbai. ... Respondents

With
First Appeal (st) No. 5269 of 2025
With
Interim Application No. 1880 of 2025
(Delay)
With
Interim Application No. 1881 of 2025

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(Stay)
With
Interim Application No. 1882 of 2025
(Intervention)
With
Appeal from Order No. 93 of 2025

Harish Hiralal Mehta and anr. Appellants

v/s.

Daksha Ajay Khatlawala and anr. Respondents

Mr. Shrikrishna Ganbavale a/w. Mr. Prashant Pandey a/w.Mr. Ashok Dhanuka, Mr. Nikhil Sonar and Prashant Pandey i/b. W3 Legal LLP	Advocates for the Appellants/Applicants.
Mr. Anant Shinde	Advocate for Respondent No.3.

CORAM : S.M. MODAK, J

DATE : 6th October 2025.

P.C. :

Heard learned Advocate for the Appellants-Judgment Debtors and learned Advocate for Respondent No.3-Bank who is subsequently added to these proceedings as per the order passed by this Court on 5th August 2025.

2. In fact Bank was not a party in Summary Suit No.208/2015. There was a Suit filed by present Respondent Nos.1 and 2 for recovery against the present Appellants. There was an ex-parte decree passed by the City Civil Court on 13th November 2018.

There was a direction to pay Rs.38,06,290/- along with certain directions for the interest.

3. There is a submission that initially the judgment debtor filed Chamber Summons for setting aside the ex-parte decree, however, it was rejected and the Appeal from Order is preferred. Later on they intend to file substantive First Appeal against exparte decree. However, there was a delay and this Court as per the order dated 7th August 2025 has condoned the delay.

4. The flats which the defendant has agreed to sale to the plaintiffs were auctioned by Respondent No.3-Bank. Even the Respondent No.3 has approached the DRT by filing original application for recovery of the money. The sale proceeds of the flats were kept by the Bank in a fixed deposit. The decree holder and judgment debtor have settled the dispute and filed Minutes of the Order in this Court. It is recorded in the order dated 7th August 2025.

5. In the said order there was also a direction given to Respondent No.3-Bank to release the amount of Rs.2,10,00,000/- (Rupees Two Crore and Ten Lacs Only) in favour of Respondent Nos.1 and 2 who are the decree holders whereas remaining amount was to be deposited in the office of the Court. According to learned Advocate for the Respondent-Bank both these directions are complied with. Learned Advocate for Respondent-Bank has shown

to me copy of the demand draft for Rs.2,32,91,618/- issued in the name of Registrar of this Court.

6. It is true in the order dated 13th August 2025 submission is recorded that Respondent No.3-Bank is likely to withdraw the original application and liberty was sought on behalf of the Appellants to file appropriate proceedings before the DRT raising dispute about loan account settlement. Direction was also given to file 'loan account statement'. In the meantime, Respondent No.3-Bank was directed not to withdraw the Original Application No. 103/2023 (Para No.6 of the order).

7. Submission is made on behalf of Respondent No.3-Bank that 'loan account statement' is already submitted to this Court by way of affidavit-in-reply which is on Page No.93. Account statement is also annexed. Submission is the Bank has complied with the directions and hence the direction not to withdraw original application may not be continued.

8. There is a opposition on behalf of the Appellants. My attention is invited on Page No.130. It is one of the page of 'Statement of Account'. More specifically, my attention is invited to certain entries at the bottom of that page which are dated 25th August 2025. The grievance raised is "these entries are made subsequently by the Bank". Whereas learned Advocate for Respondent No.3 Bank tried to explain by submitting that the account of the Appellants was declared as non-performing asset account and sale proceeds are

deposited in the said account on 23rd June 2023 onwards. My attention is invited to same Page No.130. So there is a strong opposition for continuing the liberty granted as per the earlier order.

9. Submission on behalf of the Bank is the Bank has already received the amount sought to be recovered by filing of original application and hence the Bank want to withdraw the original application. In respect of disbursal of the amount deposited by the Bank in this Court, the Bank is not having any objection for disbursing it to the Appellants. Submission is made on behalf of the Appellants that this money belong to them and it may be transferred to them.

10. Today no one is present on behalf of Respondent Nos.1 and 2 who are the decree holders. The Minutes of the Order mentions about the withdrawal of the proceeding by concerned parties.

11. It is true this Court is not expected to decide whether the grievance of the Appellants regarding certain entries is proper or not? It is for the concerned Court to decide the same. That will be subject matter of merits before that Court and even if the Appellants will not raise certain grievance then also the Bank is at liberty to put forth their case. In view of that following order is passed:

ORDER

- (i) The First Appeals and pending interim applications are disposed of in the light of the Minutes of the Order

dated 7th August 2025.

- (ii) Registry is directed to transfer the amount of Rs.2,32,91,618/-along with accrued interest if any to the Appellants (subject to confirmation by the Registry about deposit).
- (iii) Respondent No.3 – Bank is at liberty to withdraw the Original Application No.103/2023 pending before DRT within four weeks from the uploading of the order.
- (iv) Liberty is granted to the Appellants to take appropriate proceedings thereby making grievance about the entries in the bank statement. The appropriate forum is at liberty to decide their grievance after hearing the Bank on merits and as per the law including the issue of limitation.
- (v) All concerned to act on an authenticated copy of the order.

(S.M. MODAK, J.)