

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

INTERIM APPLICATION NO. 8254 OF 2025

IN

FIRST APPEAL NO. 1518 OF 2024

Dhaval Subodh Parekh And Another ...Applicants

In the matter of:

Pavan Hans Limited ...Appellant

Versus

Dhaval Subodh Parekh And Another ...Respondents.

Mr. A. S. Marathe for Applicants.
Mr. Sandeep Mahadik for Appellant.

Coram : Sharmila U. Deshmukh, J.

Date : 9th May, 2025.

P. C. :

1. The present Interim Application has been preferred seeking clarification of order dated 12th February, 2025 by which the Applicants were permitted to withdraw 50% of the amount deposited.
2. Learned counsel appearing for Applicants submits that there is *prima facie* finding in the order of 12th February, 2025 that the Claimants are entitled to compensation in view of negligence on the part of Defendant No. 1. He submits that it was further observed that the Claimants were decree-holders and cannot be deprived of the

fruits of decree and permission was granted to withdraw 50% of the entire deposited amount without furnishing any security. He would further submit that Registry has not permitted the withdrawal of proportionate share of interest accrued on the deposit as order only refers to withdrawal of 50% of amount deposited and seeks clarification in that regard.

3. Learned counsel appearing for Appellant submits to order of this Court.

4. I have perused the order of 12th February, 2025.

5. The Application had been preferred by Applicant seeking permission to withdraw the entire amount along with accrued interest. It is in background of this prayer that order of 12th February, 2025 was passed. This Court had come to a *prima facie* finding that the Claimants are entitled to compensation and as the First Appeal will take some time for final disposal, the suit being of the year 1990, they cannot be deprived of fruits of the decree. While permitting the Applicants to withdraw 50% of deposited amount, this Court was conscious that the interest had accrued on the deposited amount. Due to oversight, the permission to withdraw proportionate share of accrued interest was not recorded.

6. In light of above, it is clarified that Applicants are permitted to withdraw 50% of the entire deposited amount along with

proportionate share of the accrued interest without furnishing any security.

7. Interim Application is allowed in terms of prayer clause 'a'.
8. Liberty to mention the matter for final hearing after vacation.

[Sharmila U. Deshmukh, J.]