

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
INTERIM APPLICATION NO. 194 OF 2024
IN
SUIT NO. 4913 OF 2000**

Nadeem Majid Oomerbhoy ... Applicant/Plaintiff

vs.

1a) Riyad Rashid Oomerbhoy and others ... Respondents/Defendants

Mr. Kirti Munshi, Senior Advocate, a/w. Z. A. Zariwala and Mr. Ganesh Ambekar, i/b. Jariwala Associates for applicant/plaintiff.

Mr. Aniesh Jadhav a/w. Mr. Dev S. Tejnani, i/b. Mr. Aniesh Jadhav for respondent/defendant No.2.

Mr. Kunal Dwarkadas a/w. Mr. Neil Dutta, i/b. Wadia Ghandy & Co. for respondent/defendant nos.4b(i) to 4b(iv).

Ms. Charushila Vaidya, 2nd Assistant to the Court Receiver.

CORAM : MANISH PITALE, J.

DATE : 30th JANUARY, 2025

P.C. :

. By this application, the applicant (plaintiff) is seeking the following relief:

“a) That this Hon’ble Court be pleased to direct the Prothonotary & Senior Master, High Court, Bombay to pay over to the Plaintiff the said amount of Rs.1,50,00,000/- deposited in this Hon’ble Court pursuant to Orders dated 08.07.2014 as modified by Order dated 16.07.2014 and 04.08.2014 (Exhibits – “A” and “B” hereto) along with interest accrued thereon;”

2. Mr. Munshi, the learned senior counsel appearing for the applicant invited attention of this Court to the judgment and order dated 08.07.2014 passed in Notice of Motion No.2485 of 2012 in

Suit No.671 of 2002, as also subsequent order dated 04.08.2014 passed in the said proceeding. It is submitted that appropriate steps in pursuance of the said orders, were taken and in that context, an amount of ₹ 1,50,00,000/- deposited with the Prothonotary and Senior Master of this Court, is still lying in deposit. It is submitted that on proper reading of the aforesaid judgment and order dated 08.07.2014 and subsequent order dated 04.08.2014 passed in the said proceeding, this Court may consider directing the Prothonotary and Senior Master of this Court to disburse the said amount of ₹ 1,50,00,000/- lying in deposit with this Court alongwith accrued interest.

3. The learned counsel for defendant No.2 submitted that copy of the application was not served upon the said defendant. But, the learned senior counsel for the applicant/plaintiff has clarified that a copy of the application was indeed served on 05.01.2025 and that in any case, even prior to the said date, the defendant had appeared before this Court on 06.12.2024, when time was granted to file reply affidavit. In that light, this Court is satisfied that defendant No.2 was served with a copy of the application. The learned counsel for defendant No.2 has not raised any specific objection with regard to the prayer made in the present application.

4. The learned counsel appearing for the defendant Nos.4b(i) to 4b(iv) submitted that this Court may pass appropriate orders in the application. But, since certain allegations have been made in paragraph No.15 of the present application, this Court may consider directing the applicant to delete the said allegations from the present application, as there are other proceedings pending between the parties, wherein the said defendants would have a lot to say.

5. This Court has considered the judgment and order dated 08.07.2014 passed in Notice of Motion No.2485 of 2012 in Suit No.671 of 2002. It shows that the said suit was filed seeking dissolution and distribution of the properties of a private Trust called Ahmed Oomerbhoy Wakf Trust, which consisted of two groups viz. Sattar group and Majid group. Eventually, the disputes were settled and the subject properties of the Trust were shown in two lots out of which the Sattar group chose Lot-I. The difference between the value of the properties was monetized at ₹ 3 crores. Since the Sattar group, which consisted of the plaintiff and the defendant Nos.2 to 6 in the said suit, had opted for Lot-I, they were asked to deposit the said amount of ₹ 1,50,00,000/- on or before 25.08.2014 before the Prothonotary and Senior Master of this Court. In the order dated 04.08.2014 passed in Notice of Motion No.2458 of 2012 in Suit No.671 of 2002, minutes of order were signed between the parties. Paragraph No.7 of the minutes of order dated 04.08.2014 show that the said amount was to be invested by the Prothonotary and Senior Master of this Court in a recurring fixed deposit and that the said amount was to be kept in deposit, subject to orders that may be passed in the present suit bearing Suit No.4913 of 2000.

6. Having perused the said documents filed alongwith the application, this Court is satisfied that the instant application is maintainable in the present suit i.e. Suit No.4913 of 2000.

7. Having heard the learned senior counsel appearing for the applicant/plaintiff and also having perused the contents of the present application, this Court is satisfied that sufficient grounds are made out by the applicant for seeking relief in terms of prayer clause (a), quoted hereinabove. The defendants have not raised any serious objection to the said prayer being granted, except for the fact that

defendant Nos.4b(i) to 4b(iv) have made the aforesaid statement with regard to the allegations made in paragraph No.15 of the instant application.

8. With regard to the aforesaid aspect of the matter, the learned senior counsel for the applicant/plaintiff makes a statement that the allegations made in paragraph No.15 are not being pressed in the present application, with liberty to take appropriate steps with regard to such allegations in other pending proceedings between the parties. The statement is recorded and liberty as aforesaid, is reserved for the applicant/plaintiff.

9. In view of the above, the application is allowed in terms of prayer clause (a) quoted hereinabove. Consequently, the Prothonotary and Senior Master of this Court shall disburse the aforementioned amount alongwith accrued interest in favour of the applicant/plaintiff within two weeks from today.

10. List Interim Application No.794 of 2024 in Suit No.371 of 2002 alongwith Interim Application No.212 of 2024 in Suit No.4913 of 2000, on 20.02.2025, High on Board.

11. On the said date of listing this Court shall also consider issuing directions with regard to the hearing of other pending applications.

(MANISH PITALE, J)

Priya Kambli