

Sharayu Khot.

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION

INTERIM APPLICATION NO. 3398 OF 2024

IN

SUIT NO. 109 OF 2022

Suman Uttamrao Londhe

...Intervenor

In the matter between

Rakesh Kavishanlal Agrawal

...Plaintiff

Versus

Mahesh Uttamrao Londhe

...Defendant

Mr. Pratik Rajopadhye a/w Mr. Ameya Ranade, Ms. Maithili Rane
i/by Ms. Sonu Randive for the Applicant / Intervener.

Mr. Rohan Savant a/w Mr. Ranjit Bhosale, Mr. Sandeep Nirban i/by
Anand Kumar Singh for the Plaintiff.

Mr. Akash Kotecha for the Defendant.

Mr. N.C. Pawar, Court Receiver.

Mr. Swayam Chopda, OSD, Court Receiver.

Ms. Suman Londhe, Applicant present.

Mahesh Londhe, Defendant present.

CORAM : R.I. CHAGLA J

DATE : 8 July 2025

ORDER :

1. By this Interim Application, the Applicant has sought for

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setting aside the compromise decree dated 28th February 2022 passed by this Court in Suit (L) No. 2796 of 2022.

2. Mr. Rajopadhye, the learned Counsel for the Applicant has referred to a Will, which is annexed to the Interim Application at page 38, being the Will of Uttamrao Ramchandra Londhe made on 12th October 2010, wherein in Clause 13A he had bequeathed the suit property which is of his ownership to his son, i.e. Defendant / Respondent in the Interim Application and at the same time had granted life interest to the Applicant herein i.e. to reside in the suit property till her death, which shall remain unaffected.

3. Mr. Rajopadhye submitted that the said compromise decree had been passed in terms of the Consent Terms. In Clause 15 of the Consent Terms, the Plaintiff and the Defendant had agreed that in the event of the death of the Defendant, before the death of the Applicant, the Court Receiver shall within seven days from such event, with the help of police machinery, if so required, take forcible possession of the suit property. He has submitted that this would defeat the life interest of the Applicant in the suit property particularly when the life interest had been bequeathed to her by the

said Will which has been probated on 12th June 2019.

4. Mr. Rajopadhye has thereafter referred to Clause 8 of the Consent Terms, wherein the Defendant had agreed to hold possession of the suit property as an agent of the Court Receiver till the Defendant and his mother i.e. the Applicant jointly handover possession of the suit property to the Court Receiver or till the lifetime of the Applicant and within the period of 15 days of her death, the Defendant shall handover the quiet, vacant and peaceful physical possession of the suit property to the Court Receiver.

5. Mr. Rajopadhye has submitted that the Consent Terms has been entered into between the Plaintiff and the Defendant in a collusive manner for defeating the rights of the Applicant in the suit property.

6. Mr. Rajopadhye has referred to the averments in the Affidavit in Reply of the Defendant and in particular, paragraphs 9 and 10 in support of his submission that the disposed of Suit was a collusive Suit.

7. Mr. Savant, the learned Counsel for the original Plaintiff has upon instructions stated that the aforementioned Clause 15 of the Consent Terms will not be acted upon by the Plaintiff.

8. Upon a query being put to the learned Counsel for the original Defendant, he has on instructions also stated that Clause 15 of the Consent Terms, which had been agreed upon between the parties would not be acted upon.

9. Having considered the submissions, I am of the *prima facie* view that Clause 15 of the Consent Terms would come in the way of the Applicant's life interest in the suit property which had been bequeathed to her by her husband, viz. Uttamrao Ramchandra Londhe by the Will made on 12th October 2010 and in particular Clause 13A thereof. However, in view of the statement on behalf of the original Plaintiff and original Defendant, that Clause 15 of the Consent Terms dated 28th February 2022, which forms part of the compromise decree of this Court, will not be acted upon by the parties, the Applicant's life interest in the suit property is protected as per Clause 8 of the Consent Terms.

10. Further considering that there are other contentions raised by the Applicant, liberty is granted to the Applicant to take out appropriate proceedings where such contentions may be raised.

11. There is no bar in filing the appropriate proceedings, considering that the compromise decree is not being challenged, in view of the statement of the original Plaintiff and Defendant that Clause 15 of the Consent Terms / Decree will not be acted upon. This statement has been accepted by this Court.

12. The Interim Application is accordingly, disposed of in the above terms.

13. There shall be no order as to costs.

[R.I. CHAGLA J.]