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

INTERIM APPLICATION NO. 8146 OF 2025
IN
SUIT NO. 460 OF 2023

Yunus Vali Adam Yousuf ...Applicant

In the matter between :

Yunus Vali Adam Yousuf ...Plaintiff

Versus

Khalid Vali Haji Yusuf and Ors. ...Defendants

Ms. Ankita Singhania *a/w P. Ranjan i/b Pinaz Contractor, for the Applicant/Plaintiff.*

Mr. Simil Purohit, *Senior Advocate a/w Mr. Dharam Jumani, Mr. Mihit Nerurkar, Mr. Suraj Iyer, Ms. Gauri Joshi i/b Ganesh and Co. for the Defendants.*

CORAM : SOMASEKHAR SUNDARESAN, J.

DATE : FEBRUARY 5, 2026

ORAL JUDGEMENT :

<u>Context and Factual Backgorund:</u>

1. This Interim Application seeks confirmation of interlocutory relief, pending the hearing and final disposal of the suit, which is essentially a dispute over a building called Marcopia, at Peddar Road,

Mumbai, to which the parties claim entitlement through their late father, Vali Adam Yousuf ***(“Vali”).***

2. The Plaintiff is the son from the first marriage of Vali, while the Defendants are the offspring from the second marriage of Vali with Mariam Vali Adam Yousuf ***(“Mariam”)***.

3. The facts of the case fall within a rather narrow compass for the purposes of an interlocutory arrangement. The parties until now have had a standstill arrangement by way of an exchange of correspondence, and this Application is now being considered for an appropriate interim arrangement pending the hearing and final disposal of the Suit.

4. The Plaintiff, Yunus Vali Adam Yousuf ***(“Yunus”)*** claims a one-third share in Marcopia, on the basis that when the property was acquired, it was acquired in equal proportions by Vali, Mariyam and Yunus. He would submit that upon Vali’s demise, his share could only have enhanced, but he is being deprived of the same by the conduct of the Defendants, necessitating the Suit.

5. According to Yunus, the parties had arrived at a family settlement on August 31, 1994, which was signed by all the legal heirs of

Vali, agreeing to distribute the property in India according to the personal law applicable to them.

6. Yunus would contend that he approached one Mr. Kamlesh Thakur, who was known to him, seeking advice and help in relation to preserving the family's interests in Marcopia; and it was with Mr. Thakur's assistance that Marcopia, which was occupied by the Consulate of the Czech Republic got vacated and was surrendered to the family. The upshot of this contention is that Yunus is an acknowledged stakeholder and was actively involved in securing the future of the property.

7. Yunus contends that after his name had been removed from the land records by reason of a mutation entry, which was purportedly based on a Release Deed said to have been executed on his behalf by Vali on June 8, 1993 ("***Release Deed***"), purportedly on the strength of a power of attorney which is not even in existence. After Yunus objected to mutation entries which removed his name from the property card, retaining only the names of the Defendants as sole owners of the building, the parties ended up in criminal proceedings with Yunus alleging fraud by the Defendants.

8. Suffice it to say, sometime in December 2016, the parties entered into an arrangement whereby they agreed that the property would be sold in the open market and Yunus would be entitled to a 29% share of the proceeds from such sale. Yunus contends that pursuant to the negotiations thereafter, a buyer was found. However, the buyer issued a public notice on August 01, 2022, in which the Advocates of the proposed purchaser intimated the world at large that the only persons entitled to Marcopia were the Defendants. In other words, the world was put to notice, despite the aforesaid arrangement, that Yunus had no entitlement whatsoever in Marcopia. This led to Yunus issuing a competing Public Notice on August 11, 2022.

9. A challenge to the mutation entries removing Yunus' name from the property card was also mounted by Yunus before the Maharashtra Revenue Tribunal. The Appeal is pending and a *status quo* order has been passed on October 18, 2022. The *status quo* order led to Writ Petition No. 3836 of 2025 being filed. By an order dated December 22, 2025, a Learned Single Judge of this Court who was hearing the matter, stayed the continuation of the Appeal until the next date, and the Writ Petition is coming up from time to time.

Contentions of the Parties:

10. Ms. Ankita Singhania, Learned Advocate on behalf of Yunus, would submit that there are at least seven iterations of Yunus' interest in the matter. She would submit that the mutation entries deleting Yunus' name from the land records, thereby undermining Yunus' interests, had led to criminal proceedings before the parties arrived at a compromise on December 13, 2016, whereby Yunus agreed to take a hit on his entitlement and restrict his interest to 29%.

11. The settlement letter, she would submit, is indicative that the Defendants have not denied that Yunus has interests in the matter. It is only when the Public Notice indicating that Yunus had no interest in the property was published on August 01, 2022, that the cause of action to file the suit arose, which then led to this Application for interim relief.

12. Mr. Simil Purohit, Learned Senior Advocate for the Defendants, opposes grant of any interim relief on two counts – the Release Deed that had been duly registered, and on the ground of limitation.

Release Deed:

13. Mr. Purohit would present a chart indicating the devolution of rights in the property to indicate what Yunus' share could be on a best-case basis to contend that it would be barely over 8%. Mr.

Purohit's contentions are based almost entirely on the Release Deed executed, whereby Yunus is stated to have relinquished all his interests in the building pursuant to the Release Deed.

14. For a *prima facie* examination, when one looks at the Release Deed, it is only signed by Vali, purporting to hold a Power of Attorney granted by Yunus on May 23, 1985. Admittedly, when the property was acquired, Yunus was aged 16 years; but at the time of the execution of the Power of Attorney, he would have been around 27 years of age, and at the time of the Release Deed, he would have been around 36 years of age. It is evident that the Power of Attorney does not appear to be available on the records of the Sub-Registrar of Assurances, and while the existence of the Power of Attorney is being asserted, it does not form part of the record today.

15. This could have well been an internal family arrangement with the father who was rearranging the affairs having settled in Zambia, but the precise facts are a subject matter of trial. Suffice it to say, the strength of the Release Deed, which in any case is registered, depends on whether Yunus' had actually given consent to such release being recorded through a purported constituted attorney i.e. the father, Vali. The power of attorney not being available leads me to discount the impact of the full release on which Mr. Purohit relies.

16. Having examined the record, it is apparent to me that, at this stage, it would be difficult to conclusively hold that the Release Deed entirely erodes all interests of any nature whatsoever that Yunus may claim in the property, particularly when there is no registered power of attorney conferring any power to Vali to sign off Yunus' interests in Marcopia.

17. Mr. Purohit relies on a judgement of the Supreme Court in ***Hemalatha***[1] to submit that the Court should have due regard to the formidable presumption of validity of any registered deed, because registration is not a mere procedural formality but a solemn act that imparts a high degree of sanctity to the document. While the matter in hand involves a registered deed, it cannot be forgotten that such deed is purported to have been signed by Vali on the basis of a Power of Attorney which also ought to have been registered, considering that the property in question is immovable property.

18. Therefore, while it is nobody's case that the registered Release Deed can be displaced lightly, since is not backed by a signature of Yunus, but by the signature of Vali, purportedly on the basis of a Power of Attorney, registration of which is nowhere in sight today, the

1 *Hemalatha (D) By LRs. Vs. Tukaram (D) By LRs., Civil Appeal No. 6640 of 2010, dated January 22, 2026.*

Release Deed is not being lightly wished away but is worthy of being discounted to a serious degree.

19. Mr. Purohit would also submit that the stance of denial of the execution of a Power of Attorney taken up before the Maharashtra Revenue Tribunal is diluted by a pleading in the plaint, suggesting that Yunus has no recollection of having executed the Power of Attorney. To my mind, this is a distinction without a difference. If a party has no recollection, it is the same as the party essentially saying that, to the best of its knowledge, it has not executed a Power of Attorney, at least at this *prima facie* stage.

20. The other factor that weighed with the Supreme Court in Paragraph 32 of ***Hemalatha*** was the consideration for the deed under registration. In the facts of this case, the Release Deed does not record any consideration and is essentially a deed unilaterally effected by Vali, both for himself and for his son, on the basis of a Power of Attorney which is not available with any party or in the register of the Sub-Registrar of Assurances. Therefore, in my opinion, while the Release Deed is not being completely eroded, it is equally not being displaced "at the drop of a hat" as indicated by the Supreme Court.

Limitation:

21. Mr. Purohit's contention that the disputes between the parties arose as early as 2013 while the Suit having been filed only in 2022, makes it hopelessly barred by limitation, does not, *prima facie,* inspire confidence. It is apparent that within three years from 2013, the parties appear to have entered into negotiations and brought peace in the matter by putting in place an escrow arrangement. Equally, Yunus' involvement in getting the Consulate of the Czech Republic vacated forms part of the record and cannot be lightly wished away without being tried.

22. If the parties have, with their eyes open, arrived at some arrangement and that arrangement entailed some share, in this case, of 29% in favour of Yunus, the question of limitation presents itself as a mixed question of fact and law, which cannot be summarily decided at this stage and would need to be examined when evidence is led. Mr. Purohit would submit that there was no real executed escrow arrangement but the parties had placed a letter in the custody of a mutually agreed lawyer who was to hold on to the letter. There is no real agreement executed by the parties but the confirmation from Yunus that he would have no objection to the sale of Marcopia and his share would be limited to 29%.

23. Be that as it may, that there is some arrangement of Yunus having a share and such arrangement being evidenced by the actions of the parties is unmistakable. This would need to be tried in the Suit.

24. Yet, in my opinion, holding up any sale of Marcopia would be of no benefit to any party. Even while all these issues are thrashed out in the Suit, it is unmistakable that the dispute is over the share in the proceeds of the sale rather than whether there can be a sale. Even the escrow arrangement taken at its highest, points to a mutually agreed direction towards a sale rather than in respect of holding up the property without any value realisation.

Interlocutory Arrangement:

25. Therefore, taking the totality of circumstances together and adjusting for the parties' respective strengths and weakness, without eroding their interests in the share of the proceeds of the sale, in my opinion, the following arrangement would balance the competing interests of the parties and secure all the parties in a reasonable position even while making progress.

26. To balance equities and to consider what would be an appropriate measure that would secure the best interests of both sides,

one would notice that on the one hand, Yunus claims that he is entitled to a 39% share, i.e., his original 33% as further enhanced by the share that would devolve to him from Vali's share upon Vali's death. On the other hand, the Defendants would claim that Yunus' share went down to to NIL pursuant to the Release Deed and thereafter, upon Vali's death, would at best represent an interest of 8.33%.

27. It was put to the parties that the Court would adjust equities and not have the property clogged up with further maintenance of *status quo* pending hearing and disposal of the Suit, since disposal of the property and realization of proceeds would further the best interests of both sides. Having considered the respective positions of the parties, in my opinion, the following order would meet the ends of justice as an interim arrangement:-

A) The parties may pursue the disposal of Marcopia, through transparent means, with Yunus as well as the Defendants, being entitled to scout for buyers to dispose of the property;

B) Each of Yunus on the one hand, and the Defendants as a group on the other, shall intimate any proposals for purchase obtained, to enable the other side to examine the proposal and consent to the sale. This mutual participation is being permitted based on Mr. Purohit's submission that Yunus should not stall the deal and the Defendants would also sell if Yunus were to discover an acceptable price. It would also allay any apprehension of the integrity of price discovery being subverted;

C) Once the parties agree upon a buyer and a price, execution of the transaction would take place. Should any party be unwilling to execute the transfer documentation, the Learned Court Receiver of this Court would be entitled to execute the same and bind the party that is not willing to sign despite having found an agreed buyer at an agreed price. This provision is made mutual since it was conceded that even Yunus may locate a buyer and the Defendants would be willing to sell the building to a buyer identified by Yunus if the price were acceptable;

D) The proceeds from such sale shall be deposited with the Registry of this Court, and from the same, 75% shall be released to the Defendants while 25% shall be retained in the Court, subject to the outcome of the Suit;

E) All price negotiations and the consideration negotiated for such sale shall be fully and transparently shared with Yunus. Since apprehension is being expressed by Yunus about the real consideration being capable of being masked, liberty to apply is granted should there arise any dispute over the real consideration, on the basis of any specific facts asserted by Yunus.

28. It is made clear that with the aforesaid interim arrangement, the sale would no longer be constrained, and disposal of the property may be undertaken subject to a share of 25% being deposited in this Court, which, along with the accruals thereon, would abide by the outcome of the Suit.

29. Nothing contained in this order would erode the ability of the parties to agitate any cause of action prosecuted by them on the matters of succession and inheritance.

30. After this order was dictated, Ms. Singhania requests for a stay of this order, to enable her to take instructions as to whether Yunus desires to carry this matter higher. The effect and operation of this order is stayed for a further period of two weeks from the upload of this order

on the website of this Court. Until such date, the arrangement obtaining as of today shall continue.

31. The Interim Application is ***finally disposed of*** in the aforesaid terms.

32. All actions required to be taken pursuant to this order shall be taken upon receipt of a downloaded copy as available on this Court's website.

[SOMASEKHAR SUNDARESAN, J.]

Chaitanya