



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

**APPEAL NO. 60 OF 2024
IN
INTERIM APPLICATION NO. 3780 OF 2022**

Vikram Pravinchandra Kapadia .. Appellant

Versus

Bonny Enterprises and Ors. .. Respondents

**WITH
INTERIM APPLICATION (L) NO. 21896 OF 2024
IN
APPEAL NO. 60 OF 2024**

Vikram Pravinchandra Kapadia .. Applicant

Versus

Bonny Enterprises and Ors. .. Respondents

Adv. Mohammed Asim, for the Appellant.

Adv. Arif Ali Khan, a/w Adv. Ojas Cole, for Respondent No. 1.

**CORAM: B. P. COLABAWALLA &
FIRDOSH P. POONIWALLA, JJ.**

DATE: JANUARY 23, 2026

P. C.

1. The above Appeal has been filed against the order dated 20th December 2022. The impugned order was passed in an Interim Application

filed by the Appellant to recall the compromise decree dated 8th September 1987, passed by this Court in accordance with the consent terms executed between the parties in Suit No. 2055 of 1985.

2. The substance of the Application was that on the date of the institution of the Suit, Plaintiff No.1 (Respondent No.1 herein – Bonny Enterprises) was not a registered partnership firm. It was argued before the learned Single Judge that the Appellant was not aware that Respondent No.1- Partnership firm was not registered, and the same came to his knowledge only recently when the Appellant obtained information under the Right to Information Act. The attention of the Court was invited to a copy of the Application for the registration of the firm, which was preferred on 18th February 1987. It is on this basis that the Appellant argued before the learned Single Judge that on the date of institution of the Suit, the firm was not registered, and the said fact was confirmed by one of the partners of the firm in the affidavit sworn on 19th March 1986.

3. The learned Single Judge, after hearing the Appellant herein, noted that the decree on the basis of the consent terms was passed on 15th September 1987. The learned Single Judge noted that this was not a case where the Appellant was not a party to the consent terms, nor was it their

case that the consideration mentioned therein was not received. Considering these facts, the learned Single Judge dismissed the Application on the ground that it suffers from serious delay and laches. This is apart from the fact that the learned Single Judge seriously doubted where Section 69(2) of the Indian Partnership Act would operate as a bar to the Suit for Specific Performance of an agreement for sale allegedly executed by the Defendants on 15th September 1978, the legality and binding effect of which was confirmed by the consent decree dated 8th September 1987. It was in these facts that the learned Single Judge exercised his discretion, and in our view, correctly so and dismissed the Interim Application filed by the Appellant herein (Defendant No.7).

4. Having heard the learned Counsel for the Appellant as well as the learned Advocate appearing for the Respondents, we do not find anything objectionable in the order passed by the learned Single Judge. A party cannot take advantage under the consent terms and thereafter assail the same. On this short ground, we are of the view that there is no merit in the above Appeal. It is accordingly dismissed. However, there shall be no order as to costs.

5. In view of disposal of the above Appeal, nothing survives in the Interim Application filed therein, and the same is disposed of accordingly.

6. This order will be digitally signed by the Private Secretary/ Personal Assistant of this Court. All concerned will act on production by fax or email of a digitally signed copy of this order.

[FIRDOSH P. POONIWALLA, J.]

[B. P. COLABAWALLA, J.]