

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

**INTERIM APPLICATION NO. 3283 OF 2024
IN
SUIT NO. 84 OF 2024**

Vinay Kothari ... Applicant/Plaintiff

V/s.

Alok Premchand Kothari and Ors. ... Defendants

Mr. Atul Daga i/b. Kanga & Co. for the Applicant/Plaintiff
Ms. Akansha Patil with Mr. Rahul Agrawal for Defendants No. 1
Mr. Pratik Kothari for Defendant No.5

CORAM : FARHAN P. DUBASH, J.

DATE : 20TH JANUARY 2026

P.C. :

1. The dispute between the parties that is subject matter of Suit No.84 of 2024 relates to the estate of the Deceased Late Mr. Premchand Kesarichand Kothari, who has passed away on 27th January 2011.

2. Defendant Nos. 4 and 5 have filed a Probate Petition bearing No. 844 of 2015 seeking probate of the Last Will and Testament of the Deceased dated 7th February 2004. Pursuant to Caveats being filed, the Testamentary Petition has since been converted into Testamentary Suit bearing No. 196 of 2016. Pending these proceedings, the present Suit viz. Suit No. 84 of 2024

has been filed on 12th January 2024 seeking various reliefs towards administration of the estate of the Deceased, on the basis of the Will and in the alternative, if the Will is not probated.

3. In this Suit, the Plaintiff/Applicant has taken out the present Interim Application seeking various interim reliefs. Though the interim reliefs are in respect of the entire estate, Mr. Daga, learned Counsel who appears on behalf of the Plaintiff/Applicant, on instructions, is restricting his arguments only qua two flats viz. Flat Nos. 411 and 414 that are situated in Chandralok-B Building, 12, Manav Mandir Road, Mumbai – 400 006.

4. The Applicant resides in New York, U.S.A., whilst his brother – Respondent No.1 resides in Mumbai. Respondent No.1 is stated to be in possession of the said two flats bearing Nos. 411 and 414.

5. All parties have advanced arguments in relation to the limited relief sought in the present Interim Application and by their consent, it is agreed that the Interim Application may be disposed of without a reasoned order. Upon consideration of the oral arguments advanced by the parties and going through the record, the present Interim Application is hereby disposed of in terms of the following order :-

ORDER

(i) Defendant No.1 shall file an Affidavit of disclosure giving details of how he has monetized the said two Flats bearing Nos. 411 and 414 after the demise of the Deceased by virtue of giving the said two flats on license or in any other manner whatsoever. He shall give details of the license fees that he has received and also provide copies of the Leave and License Agreement that he may have entered into with the licensee in respect of these two flats. This shall be done for the period from 27th January 2011 till today. This Affidavit shall be filed on or before 9th February 2026.

(ii) Statement made by Ms. Patil, learned Counsel who appears on behalf of Defendant No.1 on instructions that the last Leave and License Agreement in respect of Flat No.411 has expired and that as on today, Defendant No.1 being in possession of Flat No.411 is accepted. Similarly, her statement, on instructions, that Flat No. 414 is presently given out on Leave and License basis, which agreement is scheduled to expire on 2nd May 2027, is also accepted.

(iii) If Defendant No.1 is desirous of giving out Flat Nos. 411 and 414 on Leave and License basis in future, he shall do so on;y after seeking leave of this Court.

(iv) This order shall continue to operate pending the hearing and final disposal of Suit No. 196 of 2016.

6. The Interim Application is accordingly disposed of. There shall be no order as to costs.

(FARHAN P. DUBASH, J.)

Jyoti Pawar

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