

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

INTERIM APPLICATION NO. 7775 OF 2025
IN
SUIT (L) NO. 32884 OF 2025

Ayaaz Amirali Fazulbhoy ...Applicant
Orig. Defendant no.1
IN THE MATTER BETWEEN

Aarif Amirali Fazulbhoy ... Plaintiff
V/s.
Ayaaz Amirali Fazulbhoy and Ors. ... Defendants

WITH
INTERIM APPLICATION (L) NO. 32888 OF 2025
IN
SUIT (L) NO. 32884 OF 2025

Aarif Amirali Fazulbhoy ...Applicant
IN THE MATTER BETWEEN

Aarif Amirali Fazulbhoy ... Plaintiff
V/s.
Ayaaz Amirali Fazulbhoy and Ors. ... Defendants

Mr. Sanket M. Mungale for the Applicant/Plaintiff
Mr. Ashok Saraogi for Defendant nos. 1 and 2 and for Applicant in
IA/7775/2025
Mr. Fleur D'souza i/b. Asahi Legal for Defendant no.4
Ms. Surbhi Kulkarni for Defendant no.11
Ms. Shikha Jain (through V.C.) i/b. Divya Shah Associates for Defendant
no.12
Mr. Nikhil Adkine a/w. Somnath Kale for Defendant no.14
Mr. Ayaaz Fazulbhoy Defendant no.1 – present in Court

CORAM : FARHAN P. DUBASH, J.

DATE : 16th MARCH 2026

P.C. :

1. Mr. Saraogi, learned Counsel appears on behalf of the Applicants who are the Defendant nos. 1 and 2 in Suit (L) No. 32884 of 2025 in support of the Application under Order VII Rule 11 of the Code of Civil Procedure, 1908.

2. In support of the said application, Mr. Saraogi has advanced two principal submissions. The first one relates to limitation viz., that the Suit, particularly prayer clause (f), which seeks a declaration that the terms of settlement dated 30th May 2019 are illegal and bad in law and do not affect the rights of the parties, is barred by limitation whilst the other is that once there is such a settlement and the same is acted upon by the parties, including, inter alia by the deceased mother who executed a Will on the basis of the said settlement, the same cannot subsequently be challenged in a court of law.

3. However, on perusal of the Interim Application, it is evident that the same contains averments only in respect of the second ground. There are no averments whatsoever to the effect that the Suit is barred by limitation. Mr. Saraogi, submits that in paragraphs 3 and 4 of the Interim Application,

reliance has been placed on the contents of the written statement as forming part of the present Interim Application. Since the written statement contains an averment to the effect that the Suit is barred by limitation, he submits that, by necessary implication, the same ought to be read into the present Application and considered by this Court.

4. After this Court has expressed its disinclination to consider such averments in the written statement as forming part of the present Interim Application, Mr. Saraogi seeks leave to withdraw the present Interim Application with liberty to file a fresh application incorporating the said ground of limitation.

5. Interim Application No. 7775 of 2025 is accordingly disposed of as withdrawn, with the liberty as sought for, with no order as to costs.

6. Mr. Mungale, learned Counsel who appears on behalf of the Plaintiff submits that his client's Interim Application viz. Interim Application (L) No. 32888 of 2025 for interim/ad-interim reliefs has been pending since October 2025 on account of the present Interim Application preferred by Defendant nos. 1 and 2. However, considering that the present Interim Application No. 7775 of 2025 is now permitted to be withdrawn, the said Interim Application (L) No. 32888 of 2025 shall now be taken up for

consideration on 6th April 2026.

7. Till then, interim reliefs, if any, granted in Interim Application
(L) No. 32888 of 2025 shall continue to operate.

(FARHAN P. DUBASH, J.)

Jyoti Pawar

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