

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

FIRST APPEAL (STAMP) NO.34625 OF 2025
WITH
INTERIM APPLICATION (STAMP) NO.34627 OF 2025
(For Stay)
WITH
INTERIM APPLICATION NO.1102 OF 2026
IN
FIRST APPEAL (STAMP) NO.34625 OF 2025

Shabnam Afzal Khan

...Appellant /
Applicant

Versus

Zainul A Qureshi (Deceased)And Ors.

...Respondents

Mr. Kunal Bhanage a/w Mr. Akshay Pawar i/b Mr. Fauzan Shaikh for the
Appellant/Applicant

CORAM : SHARMILA U. DESHMUKH, J.

DATE : MARCH 26, 2026

P. C. :

1. The Applicant has preferred the present application seeking a stay of the judgment and decree dated 9th July 2010, which has been challenged by the present Applicant, who is the daughter of the original Plaintiff. The First Appeal has been admitted, subsequent to the leave which was granted to the Applicant to file an independent appeal against the order dated 9th July 2010. Learned counsel appearing for the Applicant submits that the Applicant's father was the

original Defendant and the Appellant in the First Appeal No. 981 of 2010, and during the pendency of the First Appeal, the Applicant's father had passed away, and the surviving Appellant and the Respondents, i.e., the sons of the deceased, obtained an order of withdrawal of the appeal, though the Applicant had filed an intervention application in the appeal. He submits that by the interim orders which were operating during the pendency of the First Appeal, the possession of the Applicant's father was protected. He further submits that the Applicant is in possession of the suit premises, and without impleading the present Applicant, the brothers of the Applicant fraudulently obtained the order of withdrawal of the appeal on 21st March 2025. He submits that the impugned judgment is now being challenged, by an independent appeal by the Applicant, and in the event, the possession is not protected, the entire appeal will be rendered infructuous.

2. The matter was listed yesterday, and as the same was called out after court working hours, the matter was listed today.
3. This Court had granted leave to the Applicant to file an independent appeal against the impugned judgment, pursuant to which, the First Appeal was filed and has been admitted.
4. The present application specifically pleads about the possession of the Applicant of the suit premises, which was earlier in the

possession of the father of the Applicant. There is, therefore, a well-founded apprehension that upon the withdrawal of the appeal, the original Plaintiff would make attempts to dispossess the Applicant from the subject premises.

5. Issue notice to Respondents Nos. 2 to 5, returnable on **9th April 2026**.
6. In addition to Court notice, the Applicant is permitted to serve the Respondents Nos. 2 to 5 by private notice by all permissible modes of service and to file an affidavit of service before the next date.
7. Till the next date, the Applicant not to be dispossessed from the suit premises.

[SHARMILA U. DESHMUKH, J.]