

Ajay

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
O.O.C.J.

INTERIM APPLICATION (L) NO. 3805 OF 2025
IN
SUIT NO. 218 OF 2022

Vaibhav Kantilal Dattani and Ors. .. Applicants
Versus
Nalinkant Devchandbhai Kakkad and Ors. .. Respondents

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- Mr. Dhishan Kukreja a/w. Soraj Dube, Advocates i/by Arvind F. Mangirmalani for Applicants.
 - Ms. Deepanjali Mishra, Advocate i/by A. Naphade for Respondents.
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CORAM : MILIND N. JADHAV, J.

DATE : MARCH 06, 2025.

P.C.:

- 1.** Heard Mr. Kukreja, learned Advocate for Applicants and Ms. Mishra, learned Advocate for Respondents.
- 2.** Prayer clause (a) of the Interim Application states that this Court be pleased to modify the order dated 10.05.2022 and permit sale of deceased's share in the Suit properties which are in the hands of the Applicant in accordance with law. Order in question is appended at Exhibit 'A' – page No.31 of the Application. It is dated 10.05.2022.
- 3.** Mr. Kukreja, learned Advocate draws my attention to paragraph No.7, line No.9 which reads thus:-

“7. However at this stage all parties i.e. the Plaintiffs and the Defendants are directed to maintain status quo in

respect of all such properties belonging to the deceased in their respective hands including bank locker No. 644 in Porbandar Vibhagiya Nagrik Bank.”

4. Mr. Kukreja persuades me to consider the grounds in the Application which state that two out of the several properties held by the Applicants are required to be sold in view of changed circumstances. It needs to be understood that the aforesaid order is passed by me on 10.05.2022 directing maintaining status quo by all parties with respect to properties held by them (all parties) in their respective hands. The grounds stated in the Application do not amount to review or modification of the order dated 10.05.2022 even though the word “modify” may have been used in the prayer clause. Rather considering the grounds in the Application the word “modify” ought not to have been used in prayer clause (a). It is due to the changed circumstances after a lapse of almost 3 years the parties require directions of the Court to deal with some of the Suit properties. Therefore, in my opinion, this Application cannot amount to a review of the previous order.

5. However, both parties have persuaded me to consider the situation in view of the order dated 28.02.2025 passed by my brother judge (Coram: Arif S. Doctor, J.) in the present Interim Application. They would submit that they would not be in a position to confirm as to which Court will now consider the Interim Application since the two

properties are required to be urgently sold by the Applicants in the interest of all parties. If that be the case, Advocates for the parties shall approach the Prothonotary and Senior Master of this Court. The order dated 28.02.2025 and the present order shall be placed before him alongwith copy of the Interim Application for consideration as to which bench shall determine the Interim Application.

6. Prothonotary and Senior Master of this Court is directed to make an appropriate report based upon which the Interim Application may be assigned to the appropriate Court.

7. At the request made by both the learned Advocates at the bar, Prothonotary and Senior Master of this Court shall immediately act upon this order and do the needful. If required, the Advocates may be heard by the Prothonotary and Senior Master of this Court.

[MILIND N. JADHAV, J.]

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