

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

CIVIL REVISION APPLICATION NO. 1059 OF 2014

Mahesh Chimanlal Dalal	..	Applicant
VS.		
Pinank Rajnikant Mehta & Ors.	..	Respondents

WITH
CIVIL REVISION APPLICATION NO. 1040 OF 2014

Shantidevi Khatry & Anr.	..	Applicants
VS.		
Shashin Nayan Shah & Ors.	..	Respondents

Mr. Vishal Kanade with Tanmayee Salekar i/b. Shah & Sanghavi
for Applicant in CRA 1059 of 2014.

Mr. G. S. Godbole with Mr. Y. V. Divekar i/b. Divekar & Co. for
Applicant in CRA 1040 of 2014.

Ms Shrutika Lakhani i/b. B. Amin & Co. for Respondent No. 3(b),
6(b), 8 and 9 in CRA 1059 of 2014 and for Respondent Nos. 1 to 4
in CRA 1040 of 2014.

CORAM : M. S. SONAK, J.
DATE: 06 MAY 2015

P.C. :-

1] These Civil Revision Applications challenge order dated 7 October 2014 by which the learned City Civil Court Judge has refused to take on record the consent terms handed in by the parties and pass a decree based thereupon.

2] The two main reasons, which prompted the learned City Civil

Court Judge to make the impugned order are that certain parties had apparently not put their signatures to the consent terms and secondly the consent terms purported to settle certain disputes which did not form a part of the controversy in the plaint and the written statement.

3] In so far as the first objection is concerned, it transpires that the learned City Civil Court Judge had, permitted deletion of certain parties from the array of defendants. Consequent upon such deletion, there was obviously no question of such parties signing the consent terms. The parties who continue in the array, have duly signed the consent terms.

4] In so far as the second objection is concerned, Order 23 Rule 3 of the CPC permits a compromise of the suit, so far as it relates to the parties to the suit, whether or not the subject matter of the agreement, a compromise or satisfaction is the same as the subject matter of the suit. Accordingly, there was no legal bar to the making of consent decree even though, the subject matter of the agreement, compromise or satisfaction was in excess of the subject matter of the suit as originally instituted. That apart, it is the case of the parties that the terms of compromise relate to the subject matter of the suit itself.

5] Accordingly, the parties have now handed in fresh consent terms, by stating therein clearly that some of the parties stand deleted. Therefore, the objection that some of the parties to the suit have not signed consent terms, obviously does not survive.

6] The consent terms now handed in, have been signed by all the parties to the suit and their respective Advocates. The Advocates have identified the signatures of the parties to the suit.

7] The parties who have signed the consent terms or their constituted attorneys are present in the Court and they state that they have signed the consent terms after having read and understood the same.

8] Accordingly, such consent terms are taken on record and marked as 'X' and 'Y' respectively for purposes of identification.

9] The two suits i.e. suit no. 8429 of 1995 and suit no. 7856 of 1998 are directed to be disposed of, in accordance with the consent terms so handed in.

10] The parties are at liberty to apply to the City Civil Court at Mumbai to draw a formal decrees in terms of the consent terms so handed in.

11] The Registrar (Judicial) is directed to forward the consent terms marked as 'X' and 'Y' for purposes of identification, to the City Civil Court, in order to enable the said Court to draw out formal decrees in the suits.

12] Civil Revision Applications are disposed of in the aforesaid terms. All concerned to act on basis of an authenticated copy of this order.

(M. S. SONAK, J.)

Chandka