

IN THE HIGH COURT OF JUDICATURE AT BOMBAY**ORDINARY ORIGINAL CIVIL JURISDICTION****SUIT NO.410 OF 2015**
ALONG WITH
NOTICE OF MOTION NO. 804 OF 2015

Shernavaz Jamshed Colah and Ors.

... Plaintiffs

versus

Minoo Jehangir Colah and Ors.

... Defendants

Mr. Sharan Jagtiani, along with Ms. Ferzana Behramkamdin and Ms. Shlesha Sheth i/by M/s. FZB and Associates, for Plaintiffs.

Mr. Gaurang Mehta with Ms. Nikitha Menon, for Defendants.

CORAM: **S.J. KATHAWALLA, J.****DATE:** **3rd MAY, 2016****P.C.:**

1) The learned Advocates appearing for the parties have tendered Consent Terms dated 3rd May, 2016. They submit that the Consent Terms be taken on record and the Suit be disposed of in terms of the Consent Terms. The Consent Terms are taken on record and marked 'X' for identification. The Consent Terms are signed by the Plaintiff Nos. 1, 2 and 3 and Defendant Nos. 1, 2 and 3. Except for Defendant No.3, all the signatories to the Consent Terms are present before me. They have informed me that they have gone through the contents of the Consent Terms and the Annexures thereto and have signed the same of their own free will, volition and without any force or coercion. Defendant No.3 -- Laila Colah has informed me vide

Skype call made today at 6.35 p.m., that she has signed the Consent Terms after going through its contents and annexures thereto and of her own free will and volition. There are two affidavits annexed to the Consent Terms, the deponents of which are Farah Prashadcolah and Dorab Colah, both residents of Canada. The said affidavits are dated 22nd April, 2016 and 25th April, 2016 respectively. Through Skype call made today at 6.30 p.m. both Farah and Dorab have informed me that they confirm the contents of their respective affidavits which they have signed/executed of their own free will and volition. The Consent Terms are also signed by the Advocates for the parties. The undertakings recorded in the Consent Terms are accepted.

2) In addition to the above order parties have agreed to the following order being passed by this Court:

(a) For the purpose of implementation of the arrangement under the Consent Terms, the following directions are passed:

- i. The Regional Passport Office is hereby directed to change the address of the Plaintiffs from Flat No.8 Kismet to Flat No.2 Kismet building, 63-C, Bhulabhai Desai Road, Mumbai 400 026 on their respective Passports within four weeks from the date of the application being made. The Regional Passport Officer shall not seek any proof of address and shall change the address as aforesaid only on the basis of the Order of this Court read with the clauses of the Consent Terms

dated 3rd May, 2016 and the Affidavit of Defendant No.1 Mr. Minoo Colah dated 29th April, 2016 granting his No Objection to the change of address of the Plaintiffs as aforesaid, the original of which has been taken on record.

- ii. The Protocol Officer of this Court is directed to assist the Plaintiffs to effect change of their addresses on their respective Passports from Flat No.8 Kismet to Flat No.2 Kismet.
- iii. Parties shall maintain status-quo relating to Flat No. 2 Kismet and shall not alienate, transfer or induct any third party into or create any third party rights or otherwise deal with the said Flat No. 2 Kismet in any manner until the execution and registration of the Deed of Gift in respect of Flat No.2 Kismet in favour of Plaintiff Nos. 2 and 3. If the Deed of Gift is not executed within the time stipulated in the Consent Terms, parties shall continue to maintain status quo in the above terms till the disposal of the LE & C Suit No. 134 of 2015 filed by Defendant No. 1 against the Plaintiffs in the Court of Small Causes at Bombay.
- iv. Mr. Gaurang Mehta, Advocate of the Defendants confirms having received from Defendant No.1 the original title deeds in respect of Flat No.2 Kismet which are more particularly listed in the Third Schedule to the Consent Terms. Mr. Gaurang Mehta confirms that he shall hold such title deeds as Escrow Agent on the terms and conditions mentioned in Clause 10 of the Consent Terms.

- v. Plaintiff No.1, Defendant No.1, M/s. FZB & Associates, Advocates of the Plaintiffs and Mr. Gaurang Mehta, Advocate of the Defendants have deposited the letter dated 3rd May 2016 addressed to the Prothonotary & Senior Master, High Court, Bombay in a sealed cover as mentioned in Clause 25 (ii) of the Consent Terms. Copies of the said letter dated 3rd May 2016 are already furnished to Plaintiff No. 1 and Defendant No. 1. However, if necessary, on application of either of the parties, the Prothonotary and Senior Master shall issue a true photocopy of such letter to the Applicant party.
- vi. The Talati Saja Shirdon, Taluka Panvel, Zilla Raigad and/or Circle Inspector and/or any other appropriate Land Revenue Authority shall dispose off the Joint application of Plaintiff No.1 [Shernavaz Colah], Defendant No.1 [Minoo Colah], Defendant No. 2 [Ms. Roshna Thapar] (mentioned in clause 22 of the Consent Terms] by deleting the names of late Aloo Colah, Defendant No.1 in his personal capacity, Plaintiff No.1 and Defendant No.2 from the Record of Rights including 7/12 extracts and the Mutation Register relating to the Panvel Property so that the same will remain in the sole name of Defendant No.1 [Minoo Colah] as the Executor of the Estate of the Late [Jehangir Behramji Colah] and the name of Defendant No.1 [Minoo Colah] will also be added in the Records of Rights and Mutation Register as Executor of the Late Aloo Colah as expeditiously as possible and not later than 15th June, 2016.

- vii. Defendant No.1's Advocate has deposited in a sealed cover a letter addressed to the Prothonotary & Senior Master, High Court, Bombay dated 3rd May 2016 setting out the money bequests to be made to persons to whom the Deceased Aloo Colah bore love and affection as per desire expressed in Deceased Aloo Colah's Will . A copy of the said letter has been handed over to the Plaintiffs' Advocates M/s. FZB & Associates.
- viii. The parties withdraw all allegations made against each other in the proceedings of the above Suit subject to the Consent Terms being in force and/ or complied with.
3. All concerned to act on the basis of an ordinary copy of Consent Terms duly authenticated by the Associate of this Court till certified copy is issued.
4. Issuance of Certified Copy of this Order is expedited.
5. Drawing up and sealing of the Decree passed in accordance with the Consent Terms is expedited.
6. The Suit is decreed in terms of Consent Terms marked 'X' and the order in paragraph 2 above. Refund of Court fees, if any, as per Rules. The above Notice of Motion also stands disposed off. Costs for Skype calls shall be borne by the parties equally.

(S.J.KATHAWALLA, J.)