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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
PARSI SUIT NO.17 OF 2015**

Mahernosh Jamshed Homavazir	... Plaintiff No.1
<i>Versus</i>	
Shirin Mehernosh Homavazir	... Plaintiff No.2

Ms. Sanobar Nanavati, *for the Plaintiff No.1.*
Mr. Sanjay Barde, *for the Plaintiff No.2.*

CORAM: G.S. PATEL, J
DATED: 2nd September 2016

PC:-

1. This is further to the order of 30th August 2016.

2. I must record that I have today in open Court asked both sides if they are willing to leave to me the question of fixing some final figure between Rs.40 lakhs, to which the 2nd Plaintiff is admittedly entitled, and Rs.50 lakhs, which is what she demands now as a lump-sum settlement. For her part, Ms. Nanavati on instructions has immediately stated that her client leaves it to the Court and will abide by the Court's decision. I have noticed that Mr. Barde has had the greatest of difficulty in explaining to 2nd Plaintiff what is being proposed. She appears to be completely adamant. I have not enquired into her reasons, nor do I propose to. She knows best what

her reasons are. I only note because he was present in Court, I even requested Mr. J.P. Sen, learned Senior Counsel, who is no way connected to the matter, to intercede and to try and explain to the 2nd Plaintiff what is being proposed. He attempted to do so, and says that 2nd Plaintiff is unwilling to accept a rupee less than Rs 50 lakhs, and that she is completely adamant about her stand on this.

3. This unfortunate and regrettable. For the fact of the matter is that 2nd Plaintiff signed Consent Terms and accepted figure of Rs.40 lakhs in full and final settlement. She verified the Plaint to which those Consent Terms were attached. That verification in terms says that the contents of the Plaint and its annexures were true and correct. She said in the Plaint that she had entered into the Consent Terms voluntarily and of her own free will. She committed to the figure of Rs. 40 lakhs and having received a fourth of it, later tried unilaterally to resile from her commitment.

4. I have already discussed the law in my previous order, and this is clearly that a consent once given in this fashion cannot be unilaterally withdrawn for no cause. Even today, the 2nd Plaintiff does not allege any coercion or fraud. She only says that she wants more. Her affidavit, to which I have previously referred, only said that she had 'mutually' decided to withdraw her consent. There was nothing 'mutual' about that withdrawal. The 2nd Plaintiff's statements were statements to court on solemn verification. These are not matters to be taken lightly. Courts and court proceedings cannot be dealt with as minor inconveniences or mere trifles. There is a sanctity to these proceedings, and by acting as she did, the 2nd

Plaintiff has attempted an unacceptable distortion and rupturing of that sanctity.

5. Ms. Nanavati has brought with her a Demand Draft in the amount of Rs.32 lakhs in favour of the Prothonotary and Senior Master of this Court. She will arrange to have this deposited at the latest by 7th September 2016. A copy of the payment receipt will be taken and placed on file. The Prothonotary and Senior Master will invest the amount in the usual fashion with any nationalised bank.

6. Upon that deposit being made, the Suit will stand decreed in terms of prayer clause (a). There will be no order in terms of prayer clause (b).

7. The 1st Plaintiff has acted in accordance with and complied with his obligations under the Consent Terms at Exhibit B. The 2nd Plaintiff is at liberty at any stage to apply for a withdrawal of the entire amount of Rs.32 lakhs. Upon doing so, there will also be a decree in terms of prayer clause (b) of the Suit.

8. Drawn up decree expedited.

9. The Consent Terms required the 2nd Plaintiff to vacate the matrimonial home upon a decree being passed in accordance with the Consent Terms. Since the balance amount is deposited in that Court, there cannot at this stage be an order against the 2nd Plaintiff in respect of those premises or the matrimonial home. However, when the 2nd Plaintiff withdraws the amount, then she will

undoubtedly have to quit the matrimonial home. She will do so within 30 days of her withdrawing the amount. If the 2nd Plaintiff fails to do so within a reasonable time, i.e., within six months from today, liberty to the 1st Plaintiff to apply.

(G. S. PATEL, J.)