

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

FAMILY COURT APPEAL NO.29 OF 2015

ALONG WITH

CIVIL APPLICATION NO.49 OF 2015

AND

CIVIL APPLICATION (STAMP) NO.21398 OF 2017

Abdul Hafiz Hamid Khan Appellant / Applicant

Versus

Dr. Arshi Begum Khan & Ors. Respondents

Mr. Y.H. Muchhala, Senior Advocate, i/by Mr. Achyut G. Pandit, for the Appellant-Applicant.

Mrs. Purnima H. Kantharia for the Respondents.

Mrs. Kavita Ambekar, Court Receiver, is present.

**CORAM : SMT. V.K. TAHILRAMANI &
DR. SHALINI PHANSALKAR-JOSHI, J.J.**

DATE : 26TH SEPTEMBER, 2017.

P.C. :

1. Heard both sides. Appellant-Applicant and Respondents are present in person.

2. This Family Court Appeal has been filed by the Appellant against the Judgment and Order passed by the Family Court, Bandra, Mumbai. Insofar as the matrimonial proceedings are concerned, in the Miscellaneous Civil Application No.218 of 2014,

Consent Terms have been filed by the parties, evidencing the settlement that is arrived at between the parties. The Consent Terms are dated 10th February 2015. Both the parties have agreed that, except the clause relating to sale of the flat in question, the rest of the clauses in the Consent Terms have been worked out. The flat in question is described as, *“Flat No.A-10, 4th Floor, Universal Co-operative Housing Society Limited, St. John Baptist Road, Bandra (West), Mumbai – 400 050”*.

3. It was earlier agreed between the parties that the said flat would be sold and the parties will divide the sale-proceeds equally among themselves. Both the parties were allowed to get a Buyer; however, the flat was not being sold. In the meanwhile, Respondent No.1 got a Buyer, who was willing to buy the said flat for Rs.1,30,00,000/-. That deal was given by the Buyer to the Court Receiver. In the meanwhile, learned counsel for the Appellant submitted that, half amount of Rs.1,30,00,000/-, which would be given to Respondent No.1, would be Rs.65,00,000/-; however, instead thereof, the Appellant is willing to give Rs.67,00,000/- to Respondent No.1 in lieu of her half share for the flat. The Appellant

has, accordingly, deposited Rs.67,00,000/- with the Court Receiver. The Court Receiver has confirmed the same.

4. Learned counsel for the Respondent, on instructions from Respondent No.1, who is present in the Court, agrees that Respondent No.1 will give / execute the following documents :-

- (i) Letter of resignation from the joint membership of Universal Co-operative Housing Society Ltd. and for deleting her name from the Share Certificate Nos.18 and 43 and from other records of the above society.
- (ii) 'Deed of Transfer' of the share of Respondent No.1 in the suit flat in favour of Mrs. Reshma Hafiz Khan.
- (iii) Application for transfer of the share of Respondent No.1 in the suit flat and other requisite documents and undertakings that may be necessary for the transfer of her share in favour of Mrs. Reshma Hafiz Khan as per the

provisions of the Bye-Laws of the Universal Co-operative Housing Society Ltd.

5. In addition, Respondent No.1 will execute any other documents, which are necessary, in relation to the transfer of the said flat, as required by the Society. Respondent No.1 will also remain present before the Registrar and co-operate in executing the documents in relation to transfer of the flat to Mrs. Reshma Hafiz Khan.

6. It is agreed between the parties that the entire cost for registration of the flat, stamp duty, society charges and any other incidental expenses required for transferring the half share of the flat in favour of Mrs. Reshma Hafiz Khan, will be borne by the Appellant.

7. As far as the charges of the Court Receiver are concerned, both the parties shall equally bear the same.

8. As far as the amount deposited in the Family Court is concerned, both the parties shall take it equally, as per Clause (3) of the Consent Terms.

9. The Family Court to allow the parties to withdraw the money in equal proportion on an application being made by the parties jointly to the Family Court.

10. On Respondent No.1 executing all the documents in relation to transfer of the flat in favour of Mrs. Reshma Hafiz Khan and Appellant confirming the same, the amount of Rs.67,00,000/-, which is lying with the Court Receiver, be paid to Respondent No.1 and possession of the flat be handed over to Mrs. Reshma Hafiz Khan by the Court Receiver.

11. Court Receiver stands discharged without passing of accounts.

12. Appellant and Respondent No.1 to complete all the formalities within a period of three weeks from today.

13. The Family Court Appeal, along with the Civil Applications pending therein, stands disposed of in the above terms.

[DR. SHALINI PHANSALKAR-JOSHI, J.]

[SMT. V.K. TAHILRAMANI, J.]