

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

FIRST APPEAL NO. 1061 OF 1994

Kantilal Chunilal Motla (since deceased)
through L.Rs.

Smt. Kokilaben Kantilal Motla & Ors. ... Appellants

V/s.

Boman P. Irani (since deceased)

through L.Rs. Homayun Boman Irani & Ors. ... Respondents

Mr. Ramachandran N. for the Appellants.

Mr. N.N. Amin for Respondent No.1 (c).

CORAM : M.S. SONAK, J.

DATE : 29th MARCH, 2017.

P.C. :

1 Heard learned counsel for the parties.

2 In this matter, on 18.01.2017, the following order was
made :-

“1] The parties have handed in consent terms, which are signed by the appellants and respondent No.1(e). As per the consent terms, the possession of the suit property is to be handed over to respondent No.1(e). Further the consent terms referred to certain amounts have to be paid by the appellants to respondent No.1(e).

2] Learned counsel who now appears for respondent No.1(e) admits that he was also appearing for the remaining respondents. However, he now says that he will no longer appear for the other respondents.

3] As such, it is not possible at this stage, to accept the consent terms and make any orders on the basis thereof until the remaining respondents are given notice and their say in the matter is considered.

4] The consent terms are merely kept on record, but not accepted as yet.

5] The appellants to serve notice upon all the respondents, other than respondent No.1(e) and respondent No.2, since it is stated that this appeal stands dismissed as against respondent No.2.

6] The returnable date shall be 21 February 2017. In addition to usual mode of service, private service is also permitted. The appellants to file an affidavit of service before the returnable date.

7] Since, learned counsel appearing for respondent No.1(e) has not yet withdrawn his appearance for the remaining respondents, but he says that he does not wish to appear for the said respondents, it will be proper if learned counsel serves notice of this development upon the other respondents.”

3 In pursuance of the order dated 18.01.2017, one Dilip Kashinath More, clerk of the appellant's office has filed an affidavit of service.

4 The learned counsel for the appellants state that alongwith the notice, even the copies of proposed consent terms, which was infact, signed by the parties, was served upon the respondents.

5 Today, the appellants are represented by Mr. Ramachandran and respondent No.1 (e) is represented by Mr. N.N. Amin. None of the other respondents have appeared in the matter.

6 Appellant Nos.1(b) and 1(c) are present in the Court, so also appellant No.2(d) is present in the Court. Appellant No.2(d) is constituted attorney of appellant Nos.2(a), 2(b) and 2(e). Similarly, respondent No.1(e) is also present in Court. The parties, who are present in the Court, state that they have signed these terms voluntarily and after understanding the scope and import of what is set out in the consent terms. The consent terms have been signed by all the appellants and respondent No.1(e). The Advocates for the respective parties have identified the signatures.

7 In the aforesaid circumstances, the consent terms are taken on record and marked as 'X' for the purposes of identification.

8 The Appeal is disposed of in accordance with the consent terms. However, it is made very clear that nothing in this consent terms will bind any of the respondents except respondent No.1(e), who is signatory of the consent terms.

9 Therefore, on the basis of this consent terms, the rights, if any, of the remaining respondents, shall not be prejudiced, in any manner and under any circumstance.

10 The First Appeal is, accordingly, disposed of in the aforesaid terms.

(M.S. SONAK, J.)