

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

FIRST APPEAL NO. 1008 OF 1997

Shri Antayya Gangu Shetty
(Dead) through legal heirs
1A. Smt. Padmavathi Shetty & Ors. .. Appellants
vs.
Bombay Municipal Corporation
& Ors. .. Respondents

Mr. Albert I. Talegawkar with Sarit A. Talegawkar i/b. Bhaishankar Kanga & Girdharlal Appellants.
Mr. Prakash Shetty – Appellant No. 1B present in person.
Mr. Chandra Shety – Appellant No. 1E present in person.
Mr. Niranjana Mogre for Respondents.
Ms M. R. Bhoir for MCGM.

CORAM : M. S. SONAK, J.
DATE : 03 APRIL 2017

P.C :

1] Learned counsel for the appellants and respondent nos. 4 to 8 hand in consent terms, which are taken on record and marked as 'X' for the purposes of identification.

2] The consent terms have been signed by all the appellants as well as by respondent no. 7 for self and in his capacity as power of attorney holder for the remaining respondents i.e. respondent nos. 4, 5, 6 and 8.

3] The appellants who were present on the earlier occasion, had stated that they have signed the consent terms after understanding

their true import and scope. Today, the appellant nos. 1B and 1E, are present in the Court

4] Similarly, the son of respondent no. 7, who was also a power of attorney for respondent no. 7 is present in the Court. Respondent no. 7 on account of issues concerning his health, is unable to remain present in the Court. However, the son of respondent no. 7 states that the consent terms have been signed after understanding their true import and scope.

5] Ms Bhoir, learned counsel for . Municipal Corporation of Greater Mumbai (MCGM) clarifies that the MCGM is not a party to the consent terms. This position is not disputed by learned counsel for the appellants. In any case, it is clarified that MCGM is not a party to these consent terms and therefore nothing in these consent terms shall bind the MCGM.

6] Learned counsel for the parties however submit that observation may be made to the effect that the MCGM may consider in accordance with law and with due sympathy the matter with regard to record of names of the appellants in respect of the suit premises in the municipal records. The MCGM, to consider the matter in accordance with law, taking into consideration the circumstance that the names of the appellants were already

recorded earlier. Such record of the names of the appellants was earlier objected to by respondent nos. 4 to 8. The respondent nos. 4 to 8 have now settled the matter with the appellants.

7] The undertakings in paragraphs 9, 17 and 18 of the consent terms are accepted as undertakings to this Court.

8] The affidavit of service is taken on record so also the notarized copy of the power of attorney, by which the other respondents have conferred powers on respondent no. 7 is also taken on record.

9] Necessary decree and order to follow.

10] The Appeal is disposed of in terms of the consent terms.

(M. S. SONAK, J.)

Chandka