IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
CIVIL APPLICATION NO.185 OF 2016
IN
REVIEW PETITION NO.55 OF 2015
IN
WRIT PETITION NO. 594 OF 2015

Merwan Feroze Cama **..Applicant**
Vs.
Sunil Mittal **..Respondent**

Mr. V. D. Patil i/b Mr. Kuldeep Patil for the Applicant
Mr. Kersi Dastoor i/b Phoenix Legal for the Respondent

CORAM : R. M. SAVANT, J.
DATE : 1st FEBRUARY, 2017

P.C.

1 The above Civil Application has been filed for the following relief:

> (a) That this Hon'ble Court may pass appropriate order and appoint / authorize the officer of the Hon'ble Court to file complaint in writing to the appropriate court for the offence of Perjury committed by respondent herein punishable u/s 193 of the IPC.

2 The said prayer is founded on the statement made in paragraph 2 of the affidavit filed on behalf of the original Petitioners in Review Petition No.55 of 2015. The said paragraph 2 reads thus:

> 2. I say that on 19th June 2015 when the aforesaid matter was listed before Hon'ble Mr. Justice R. M. Savant the Senior Advocate Mr. Ravi Kadam appearing on behalf of the Petitioner submitted that pursuant to the order of the Hon'ble Supreme Court, the extent of injunction over the suit property granted to the Respondent

> No.1 ought to be limited as the Respondent No.1 whilst assuming but without admitting, can be entitled to only 12.5% share in the suit property. Senior Advocate Mr. Ravi Kadam further submitted that for the aforesaid purposes, the Petitioner will prepare the area measurement of the suit property with respect to the reserved and unreserved portions therein. Hence the present affidavit.

3 The Applicant has sought to invoke Section 195 of the CrPC on the ground that the statement which is to the effect that "pursuant to the order of the Hon'ble Supreme Court" is a false statement as no such order has been passed by the Supreme Court. On behalf of the Respondent herein an affidavit in reply has been filed wherein in paragraph1 the affiant i.e. the Respondent – Sunil Mittal has tendered an unconditional apology and stated that he had no intention of making any false statement and that the said statement has inadvertently creped in through a typing mistake. Since factually the Apex Court has passed no such order, and since the Learned Senior Counsel who had appeared on behalf of the original Petitioner, had also made no such statement. The statement as appearing in the affidavit of which excerpt has been reproduced hereinabove, can therefore be attributed to only an inadvertent error.

4 In that view of the matter, there is no cause to proceed against the Respondent under Section 195 of the Cr.PC. The Civil Application is accordingly rejected.

[R.M.SAVANT, J]