

pdp

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
APPEAL NO. 91 OF 2012
IN
CHAMBER SUMMONS NO. 1475 OF 2009
IN
SUIT NO. 638 OF 1995
(B.C.C.C. SUIT NO. 108294 OF 1995)

Boman P. Irani (Since deceased)

Through his L.Rs.

1(a) Hodayun Boman Irani (Khaver)

and ors.

.. Appellants
(Org. Plaintiffs)

Versus

1(a) Shahdokht Khodadad Bahrami and anr.

.. Respondents

Mr. Sandeep Bhagwat for appellants.

Ms. Puja Tukrel i/by Raj Baid for respondent nos.1(a) and 1(b).

CORAM: NARESH H. PATIL &
Z. A. HAQ, JJ.

AUGUST 24, 2017.

P.C.

1. The learned counsel appearing for the appellants and respondents present Consent Terms dated 24/8/2017 reached between the parties. Consent Terms are signed by the parties and their respective learned counsel. Said Consent Terms incorporating five paragraphs

running in three pages, are taken on record and marked “X” for identification. The learned respective counsel identified the parties present in the court.

2. Both the learned counsel appearing for the parties submit that the parties have agreed to get the suit disposed of by filing separate Consent Terms in the pending Civil Suit before the Bombay City Civil Court. The learned counsel, therefore, pray that impugned order dated 13/1/2012 passed by the learned Single Judge in Chamber Summons No.1475 of 2009 in Suit No. 638 of 1995 be set aside in terms of the Consent Terms.

3. We have perused the Consent Terms, considered the submissions advanced by the learned counsel for the parties. Parties have decided to get the dispute settled by filing separate Consent Terms in the pending Civil Suit before the Bombay City Civil Court. We find it appropriate to pass order setting aside the impugned order and permitting the appellants to delete the name of appellant No.1(a) since deceased and also to bring legal heirs of appellant no.2 (original plaintiff no.2) on record.

ORDER

- (a) The impugned order dated 13/1/2012 passed by the learned Single Judge in Chamber Summons No.1475 of 2009 in Suit No. 638 of 1995 is set aside.
- (b) The parties are allowed to delete the name of appellant no.1(a) – Homayun Boman Irani (Khaver) and bring on record legal heirs of appellant no.2 – original plaintiff no.2 – Parvez Boman Khaver, as described in the proceedings of Suit No. 638 of 1995 pending in this court, now transferred to Bombay City Civil Court as re-numbered as B.C.C.C. Suit No. 108294 of 1995.
- (c) Parties are at liberty to submit appropriate Consent Terms before the Bombay City Civil Court as per the agreement of the parties, as disclosed in para 1 of the Consent Terms at “X”.
- (d) Parties are at liberty to carry out the necessary amendments in the proceedings pending before the Bombay City Civil Court within three weeks.

4. The appeal stands disposed of in the above terms.

(Z. A. HAQ,J.)

(NARESH H. PATIL,J.)