

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
CIVIL REVISION APPLICATION NO.671 OF 2016
WITH
CIVIL REVISION APPLICATION NO.672 OF 2016

Debasshish Debnarayan Ghosh ... Applicant
Vs.
Opec Constructions and others ... Respondents

Mr. Sachin Dhakephalkar i/b. Mr. Pankaj Dwivedi for Applicant in both the C.R.As.

Ms Iram Memon I/b. Mr. Shoaib I. Memon for Respondent No.1 in both the C.R.As.

CORAM : R. G. KETKAR, J.
DATE : MARCH 9, 2018

P.C. :

Heard Mr. Dhakephalkar, learned Counsel for the applicant and Ms Memon, learned Counsel for respondent No.1 in both the Applications.

2. Learned Counsel for the parties have tendered consent terms dated 09.03.2018, filed in both the Applications, duly signed by the parties and their Advocates. The same are taken on record and marked 'A colly.' for identification. The subject matter of C.R.A.No.671 of 2016 is a garage admeasuring 140 sq.ft. carpet area and the subject matter of C.R.A.No.672 of 2016 is premises situate on the first floor admeasuring 1800 sq.ft. carper area, both, situate at Delphin House, Survey No.273, CTS No.C/1481, Carter Road, Khar (West), Mumbai - 400 052.

3. Mr. Dhakephalkar states that applicant in both the Applications has given Power of Attorney to his real sister - Debani Ghosh. She is present in the Court. He has tended photocopy of her Aadhar Card,

which is taken on record and marked 'B' for identification. Ms Memon states that Mohamed Salim Makda and Mohammed Saleem Mohammed Nazir Shaikh, partners of respondent No.1 - M/s. Opec Constructions, are present in the Court. She has tendered photocopy of driving licence of Mohamed Salim Makda and photocopy of Aadhar Card of Mohammed Saleem Mohammed Nazir Shaih. The same are taken on record and marked 'C colly.' for identification. Parties admit and confirm correctness of the consent terms filed in both the C.R.As. Learned Counsel appearing for the parties submit that C.R.As may be disposed of in terms of the consent terms.

4. Mr. Dhakephalkar submits that the Constituted Attorney - Ms Debani Ghosh is authorized to receive monies on behalf of the applicant as per the registered Power of Attorney executed by the applicant in her favour on 09.06.2017. He submitted that applicant's Constituted Attorney may be permitted to withdraw the amount deposited by the applicant in Small Causes Court, forthwith. Ms Memon has no objection.

5. With the assistance of the learned Counsel for the parties, I have perused the consent terms. The registered Deed of Surrender dated 17.11.2017 is annexed to the consent terms. Under the consent terms, applicant has undertaken to - (i) withdraw Appeal No.13 of 2015, pending before the Small Causes Court at Bandra and (ii) accept the correctness of the judgment and decree dated 18.10.2014 passed by the learned trial Judge. After perusing the consent terms, I am satisfied that the controversy between the parties is amicably settled in terms of the consent terms. The undertakings given by the respective parties are accepted. Ms Memon further states that respondent No.1 has received possession of the garage as also the premises on the first floor.

6. In view thereof, C.R.A. is disposed of in terms of the consent terms. Applicant's Constituted Attorney - Ms Debani Ghosh is permitted to withdraw the amount deposited by the applicant in Small Causes Court, unconditionally.

7. All parties, including the Small Causes Court, to act upon the authenticated copy of this order.

(R. G. KETKAR, J.)

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