

- Shailaja

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE SIDE JURISDICTION
CIVIL REVISION APPLICATION NO.652 OF 2013
WITH
CIVIL APPLICATION NO.428 OF 2018

M/s. Hugo Wachsmann India Private Ltd.	]	
and another.	]	Applicants
Vs.		
Rasiklal M. Nagrecha and others.	]	Respondents

WITH
CIVIL APPLICATION NO.88 OF 2019

Rasiklal M. Nagrecha and others.	]	Applicants
Vs.		
M/s. Hugo Wachsmann India Private Ltd.	]	
and another.	]	Respondents

IN THE MATTER BETWEEN:

M/s. Hugo Wachsmann India Private Ltd.	]	
and another.	]	Applicants
Vs.		
Rasiklal M. Nagrecha and others.	]	Respondents

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Mr. Abhijeet Shinde a/w Sara Sundaram i/b Cyril Amarchand Mangaldas,
learned Counsel for Applicant No.1 in C.R.A. No.652 of 2013 and C.A. No.428
of 2018.

Mr. Sajjad H. Patel, learned Counsel for Respondents No.1 to 3 in C.R.A No.
652 of 2013 and Applicant in C.A. No.88 of 2019

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CORAM : R.G. KETKAR, J.

DATE : 3rd APRIL, 2019.

P.C.

Not on board. At the joint request of learned Counsel for the parties, taken up in the production board.

2. Heard Mr. Shinde, learned Counsel for the applicant in C.R.A No.652 of 2013 and C.A No.428 of 2013 and Mr. Patel, learned Counsel for applicant in C.A. No.88 of 2019 and for respondents No.1 to 3 in C.R.A. No.652 of 2013.

3. Learned Counsel for the parties have tendered consent terms dated 3rd April, 2019 duly signed on behalf of applicant No.1 and Advocate appearing for applicant No.1 as also by respondents No.1 to 3 and their Advocate. Along with the consent terms, certified copy of the resolution passed by the Board of Directors of applicant No.1 dated 1st April, 2019, power of attorney given by respondents No.1 and 3 in favour of respondent No.2 is enclosed. Respondent No.2 is brother and Constituted Attorney of respondents No.1 and 3. The consent terms along with annexures are taken on record and marked 'X Colly' for identification.

4. Learned Counsel for the applicants states that applicant No.2-M/s. Ceeky Yarn Industrial Limited is wound up and not in existence as on date. Ms. Rajani Bhagat, Director of applicant No.1 was also Director of applicant No.2. She is present in the Court. He has tendered photo copy of her Aadhar Card, which is taken on record and marked 'A' for identification.

5. Mr. Patel states that respondent No.2 is present in the Court. He has tendered photo copy of his Aadhar Card which is taken on record and marked 'B' for identification. The consent terms, inter alia, provide that the applicants/defendants No.2 and 4 accept the findings recorded by the Courts

below. They also submit to the judgments and decrees passed by the Courts below and withdraw all objections relating thereto. Defendants No.2 and 4 have undertaken to vacate and hand over possession to respondents No.1 to 3 (original plaintiffs) of Flat No.8 on the second floor of the building known as Fern House, Opposite Electric House, Colaba, Mumbai 400 005 (for short 'suit premises') in conformity with the terms and conditions stipulated in the consent terms. The parties confirm that respondents No.4 to 7 have neither contested the suit nor they challenged the decrees passed by the Courts below. Respondents No.4 to 7 have submitted to the orders passed in the suit and the appeal. The applicants have recorded and declared that respondents No.4 to 7 have no concern of whatsoever nature with the suit premises. Applicant No.1 has declared that it is in exclusive use and occupation of the suit premises. Applicant No.1 further declared that applicant No.2 is not in existence and Company has been liquidated prior to filing of the Civil Revision Application. The applicants have further declared that no other person than applicant No.1 and its employee/servants were in use, occupation and possession of the suit premises or any portion thereof.

6. The parties admit and confirm correctness of the consent terms. Learned Counsel for the parties submit that respondents No.1 to 3 have undertaken to give Rs.1,17,50,000/- to Rajani Bhagat , Manager of Applicant No.1 by separate pay orders in terms of clause (f) of the consent terms towards full and final satisfaction of the decree dated 20th September, 2005 and 9th May, 2013 and on getting the vacant possession of the suit premises through the Bailiff of the Small Causes Court at Mumbai.

7. Learned Counsel for the parties submit that C.R.A. No.652 of 2013 may be disposed of in terms of the consent terms by accepting the undertakings.

8. After perusing the consent terms, I am satisfied that controversy between the parties is lawfully settled. Civil Revision Application No.652 of 2013 is disposed of in terms of the consent terms. Undertakings given by the parties are accepted. Decree shall be drawn in terms of the consent terms.

9. In view of disposal of C.R.A. No.652 of 2013, C.A. No.428 of 2018 for fixing final hearing date as also C.A. No.88 of 2019 is disposed of. Rule is discharged with no order as to costs.

[R.G. KETKAR, J.]