

**FARAD CONTINUATION SHEET
IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

**FIRST APPEAL NO.316 OF 2019
WITH
CIVIL APPLICATION NO.1131 OF 2019**

Indrajeet Gaurishankar Yadav` .. Appellant

VS.

Amarjeet Gaurishankar Yadav & Ors. .. Respondents

Mr.J.S.Shukla i/b M/s.Vaibhav Mehta and Associates for the appellant

Mr.S.K.Pise for the respondent nos.1 and 2

**CORAM : K. K. TATED, J
DATE : SEPTEMBER 26, 2019**

P.C.:

. Heard.

2 Both the counsel submit that matter is settled out of court. They further submits that original plaintiff nos.1 and 2 and defendant no.1 is present in court. Plaintiff nos.1 and 2 and defendant no.1 entered into the witness box. They admit the contents of the Consent Terms and execution thereof. Consent Terms dated 25.9.2019 are taken on record and marked 'X' for

identification which reads thus:

“:- CONSENT TERMS :-

1. *By consent of the parties, the Appeal is allowed;*
2. *By consent of parties, the Decree and Judgment dated 02.02.2019 passed by His Honour Judge M.I. Lokwani presiding in CR No.4 of the Hon'ble City Civil Court at Bombay, Dindoshi Branch, in Respondent No.1 and 2's Suit, being, S.C. Suit No.2477 of 2012, is hereby quashed and set aside;*
3. *In full and final satisfaction of rival / adverse claim as espoused by the Respondent Nos.1 and 2 in the S.C. Suit No.2477 of 2012 or otherwise qua the Suit Premises, namely, Flat No.304, admeasuring about 225 Sq. Fts. Sai Amrut CHS Ltd., CTS No.334, 1 to 36, Peru Baug, Aarey Road, Goregaon (East), Mumbai 400 063 situate on Plot No.33, 333(1) to (15) 334, 334/1 to 6, Survey No.97, Plot No.4 admeasuring area 400 sq. yards, and Plot No.5 area 800 sq. yards, Taluka Borivali, District Mumbai (hereinafter "**Suit Premises**"), the Appellant shall pay to the Respondent Nos.1 and 2 a sum of Rs.19,00,000/- (Rupees Nineteen Lakhs only) as follows:-*
 - a. *A sum of Rs.5,00,000/- to the Respondent No.1 on or before execution of the present Consent Terms, by way of Demand Draft / Pay Order dated 24/9/2019 bearing No.61570 issued by Cosmos Co-operative Bank Ltd., Kandivali (West) Branch in favour of Respondent No.1, the receipt whereof, (subject to realization) is doth hereby acknowledged by the Respondent No.1. The Appellant assures that the above Demand Draft / Pay Order shall be honoured by the Issuing Banker as and when presented for payment;*

- b. *The balance sum of Rs.4,50,000/- to the Respondent No.1 on or before 15.10.2019, by way of Post Dated Cheque, being cheque dated 15.10.2019 bearing No.220071 drawn on Cosmos Co-operative Bank Ltd., Kandivali (West) Branch favouring Respondent No.1, the receipt whereof, (subject to realization) is doth hereby acknowledged by the Respondent No.1. The Appellant assures that the above Post Dated Cheque shall be honoured by the drawing Banker as and when presented for payment;*
 - c. *A sum of Rs.5,00,000/- to the Respondent No.2 on or before 07.12.2019, by way of Post Dated Cheque, being cheque dated 07.12.2019 bearing No. 220072 drawn on Cosmos Co-operative Bank Ltd., Kandivali (West) Branch favouring Respondent No.2, the receipt whereof, (subject to realization) is doth hereby acknowledged by the Respondent No.2. The Appellant assures that the above Post Dated Cheque shall be honoured by the drawing Banker as and when presented for payment;*
 - d. *The balance sum of Rs.4,50,000/- to the Respondent No.2 on or before 10.01.2020, by way of Post Dated Cheque, being cheque dated 10.01.2020 bearing No. 220073 drawn on Cosmos Co-operative Bank Ltd., Kandivali (West) Branch favouring Respondent No.2, the receipt whereof, (subject to realization) is doth hereby acknowledged by the Respondent No.2. The Appellant assures that the above Post Dated Cheque shall be honoured by the drawing Banker as and when presented for payment.*
4. *Subject to payment of the amount as mentioned in para 3 hereinabove, both the Respondents do hereby agree, assure, declare and represent and also undertake to the Appellant as well as to this Hon'ble Court as follows: -*
- a. *The Appellant is the sole owner of the Suit Premises in accordance with the Permanent Alternate Accommodation*

*Agreement dated 18.01.2004 entered into between the M/s. Shree Sai Swami Developers on the one hand and Appellant as well as Respondent Nos.1 and 2 herein on the other hand (hereinafter "**Permanent Alternate Accommodation Agreement**"), free of any rights, title, interest, claim, demand or encumbrance of whatsoever nature, of and from, both the Respondents;*

- b. Respective names of both the Respondents were added to the said Permanent Alternate Accommodation Agreement for the namesake and that they have no rights, title, interest or claim of whatsoever nature in the Suit Premises and the Suit Premises is the property alone of the Appellant herein;*
- c. The Appellant is already into the exclusive use, occupation and possession of the Suit Premises ever since the date of its construction and the Appellant shall be entitled to continue to do so as per his own discretion;*
- d. The Appellant alone shall be entitled to use, occupy, possess and otherwise deal with the Suit Premises as the Sole Owner thereof without any reference to the Respondents herein;*
- e. Both the Respondents shall extend the fullest co-operation and shall, without any demur, protest or delay also sign, execute and handover such other and further deeds, affidavits, documents and/or any other papers and proceedings as may be suggested by the Appellant from time to time to ensure that the Suit Premises alongwith the Membership of Sai Amrut CHS Ltd., (i.e. Respondent No.3 herein) and the benefits arising out of the same and/or related to the same is transferred in the records of the Respondent No.3 herein and/or in the records of any statutory, judicial, quasi judicial and local authorities as well as in the records of the utility service providing authorities / agencies like Adani Electricity, MTNL, Mahanagar Gas Ltd. etc.;*
- f. The present Consent Terms shall be binding upon both the Respondents and their respective heirs and legal*

representatives and/or anybody claiming through or under them and they shall never stake any claim adverse to the present Consent Terms

- g. Appellant hereby agreed and declared that getting transfer of the suit premises in the appellant name will be sole responsibility of appellant, the respondent will not pay any charges or cost (including registration fees etc.) in future.*
- 5. The Appeal be allowed in terms of present Consent Terms.*
- 6. The court fees paid by the Respondents No.1 and 2 before trial court be refunded as per rule.*
- 7. The Decree be drawn up in accordance with the present Consent Terms.*
- 8. All the concerned parties including the Respondent No.3 to act in consonance with the present Consent Terms.*
- 9. No order as to costs.”*

3 First Appeal as well as Civil Application stands disposed of accordingly. Consent Terms be treated as part and parcel of decree.

(K.K.TATED, J.)