

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

**APPEAL FROM ORDER (ST.) NO.7999 OF 2019
WITH
CIVIL APPLICATION (ST.) NO.8004 OF 2019**

Allwyn D'Silva of Mumbai and Ors. .. Appellants

vs.

Darisa Builders Pvt. Ltd. and Ors. .. Respondents

Mr.Karl Tamboly i/b M/s.P.Vas and Company for the appellant

Mr.Rajendra Mishra i/b Mr.S.M.Suryavanshi for the respondent
no.1

Mr.Swapnil Ambure with Mr.Mikhal Dey i/b M/s.Dinesh Tiwari
and Associates for the respondent no.3

**CORAM : K. K. TATED, J
DATE : APRIL 15, 2019**

P.C.:

. Heard.

2 After arguing for some time, both the counsel filed consent terms dated 15.4.2019 duly signed by the appellant as well as Respondent with their Advocates.

3 Appellant entered into the witness box. They admit the contents of the consent terms and execution thereof. Hence,

consent terms are taken on record and marked 'X' for identification. Consent Terms reads thus:

**"CONSENT TERMS BETWEEN APPELLANTS AND
RESPONDENT NO.1:**

The Appellants and Respondent No.1 herein have amicably settled the disputes and claims between them in the above Appeal from Order and Suit No.491 of 2019 pending in the City Civil Court at Goregaon, Mumbai as are more particularly set out hereinbelow and all the terms and conditions hereunder set out in these Consent Terms:

1. *Respondent No.1 agrees, confirms and undertakes to execute in favour of each of the Appellants as well as in favour of Respondent No.4 the Individual Agreements/Permanent Alternate Accommodation Agreements containing the terms mutually agreed and accepted between the Appellants, Respondent No.4 and Respondent No.1 as recorded in the format of the draft Individual Agreement/ Permanent Alternate Accommodation Agreement annexed as **Annexure "A"** to these Consent Terms, within 7 days from the date of execution of these Consent Terms and Respondent No.1 undertakes to pay the Stamp Duty and Registration Fees as*

applicable on each of these Agreements and have the Agreements duly registered if required by Slum Rehabilitation Authority and Slum Rehabilitation Authority Guidelines within 2 months;

2. *Respondent No.1 agrees and undertakes to complete the construction and redevelopment of the entire project within a period of 18 months from the date of execution of the Individual Agreements/ Permanent Alternate Accommodation Agreements referred to above and obtain the Occupation Certificate within the said period of 18 months. On receipt of the Occupation Certificate Respondent No.1 shall offer possession to each of the Appellants and Respondent No.4 of their respective Permanent Alternate Accommodations in writing and until the expiry of the notified date for taking possession Respondent No.1 undertakes to continue paying rentals to the Appellants and Respondent No.4;*
3. *Respondent No.1 hereby agrees and undertakes to pay the rent to each of the Appellants and Respondent No.4 at the rate of Rs.15,000/- per month for the agreed period of construction being 18 months as stated above. Respondent No.1 shall pay these rentals at the rate of Rs.15,000/- per month in advance for the initial period of one year*

of the construction period that is a sum of Rs.1,80,000/- to each of the Appellants and Respondent No.4 on or before their vacating their respective transit premises in the transit camp. Additionally Respondent No.1 shall also handover post-dated cheques at the said rate of Rs.15,000/- per month to each of the Appellants and the Respondent No.4 for the balance construction period of 6 months which post dated cheques shall also be given by Respondent No.1 simultaneously while making payment of the above mentioned cheques in payment of rentals for the initial construction period of 12 months. In case of any delay in construction beyond the aforesaid period of 18 months the rentals payable by Respondent No.1 to the Appellants and the Respondent No.4 shall stand increased as per mutual agreement between the parties;

- 4. Respondent No.1 agrees to and undertakes to provide and allot free of cost on ownership basis a Flat admeasuring minimum 269 sq. ft. carpet area to each of the Appellants and Respondent No.4 in the Rehab component of the new building being constructed by Respondent No.1 on the Suit property along with amenities, a list of which is annexed to the draft agreement;*
- 5. Respondent No.1 hereby agrees and undertakes that the Appellants and Respondent No.4 shall be*

entitled to a period of 25 days from the date of execution of the Individual Agreements/ Permanent Alternate Accommodation Agreement to vacate and handover possession of their respective premises in the transit camp to Respondent No.1. The Appellants and Respondent No.4 accordingly agree and undertake to vacate and handover possession of their respective premises in the Transit Camp to Respondent No.1 within the aforesaid period of 25 days i.e. on or before 10th May, 2019, of execution of the Permanent Alternate Accommodation Agreement.

6. *This Appeal may be disposed of in accordance in terms of these consent terms between the Appellants and Respondent No.1 by this Hon'ble Court and appropriate order be passed by this Hon'ble Court to that effect. The Appellants withdraw their Appeal as against all the other Respondents.*
7. *The Appellants undertake to withdraw S.C. Suit No.491 of 2019 filed in the Mumbai City Civil Court, Dindoshi filed by Appellants against Respondent No.1 within two weeks of the execution of the Permanent Alternate Accommodation Agreements. The Appellants shall also withdraw the said Suit against all the other Respondents being Defendants therein*

against whom no reliefs have been claimed and Respondent No.4 being Defendant No.4 who is supporting the Appellants was joined only as a formal party in the Suit.

- 4 Appeal from Order as well as Civil Application stands disposed of in terms of consent terms.
- 5 Undertaking given by the parties are accepted.
- 6 No order as to costs.

(K.K.TATED, J.)