

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

FIRST APPEAL (ST)NO.15657/2019

**WITH
CIVIL APPLICATION 2376/2019
IN
FIRST APPEAL (ST)NO.15657/2019**

**WITH
CIVIL APPLICATION NO.2377/2019
IN
FIRST APPEAL (ST)NO.15657/2019**

Mr.Peter A. Pinto Appellant.
Vs.

Mr.George Anthony Pinto ... Respondent.

Advocate Mrs. Anjali Purav Chaturvedi for appellant.
Advocate Mr. P.K. Dubey for respondent no.1.

**CORAM : K.K.TATED, J.
DATED : JULY 8, 2019.**

P.C.

Not on board. Pursuant to preceipe dated 5.7.2019 filed by learned advocate for appellant, matter is taken on production board for urgent orders.

2. Heard learned counsel for parties.

3. Learned advocate for appellant submits that he received instructions to delete name of respondent no.2 from cause title of first appeal and both civil applications. Same is permitted.

4. By this first appeal, appellant/original defendant no.2 is challenging judgment and decree dated 12.4.2019 passed by Bombay City Civil Court, Borivali Division, Dindoshi, Mumbai in S.C.Suit No.2207/2010 restraining defendant from dispossessing plaintiff from the suit premises except by following due process of law.

5. Learned counsel for appellant submits that the matter is settled between the parties.

6. Both the learned counsel submits that appellant as well as respondent is present in the court. Both the parties entered into witness box. They admit the contents of Consent Terms and execution thereof. The Consent Terms are taken on record and marked 'X' for identification. Same is accepted. The Consent Terms reads thus;

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
IN ITS CIVIL APPELLATE JURISDICTION
FIRST APPEAL (St.) NO.15657 OF 2019
IN
S.C. SUIT NO.2207 OF 2010

DIST. MUMBAI

Mr. Peter A. Pinto	)
Aged about 54 years	)
Of Bombay Adult Indian Inhabitant,	)
Residing at New Vihar Kunj CHSL,	)
Plot No.17/18, Ramesh Nagar, Jai	)
Bhavani Nagar, Amboli, Andheri (W),	)
Mumbai – 400 058.	).. Appellant/Original
	Defendant No.2

V/s.

1. Mr. George Anthony Pinto	)
Aged about 58 years	)
Adult Indian Inhabitant Mumbai	)
Carrying on business in the name and	)
Style of M/s. New Perfect Tailors and	)
M/s. Loo Perfect Tailors, situated at	)
123/A, Furniturewala Chawl, (Majid	)
Abubakar Chawl), Irla Society Road,	)
Vile Parle (W), Mumbai	).. Respondent/Original Plaintiff

Anjali Purav – Yajurvedi, Advocate for the Appellant

, Advocate for the Respondent No.1

CORAM : Hon'ble A.K. Tated, J.

Date : 8th July, 2019

MINUTES OF THE CONSENT ORDER

By consent of the parties, the following Order is passed:

1. The Appellant is younger brother of the Respondent No.1 in the present First Appeal. The Respondent No.2 is widow of eldest brother of the Appellant and of the Respondent No.1.
2. The Respondent No.1, Mr. George Anthony Pinto had filed S.C. Suit No.2207 of 2010 before the City Civil Court at Dindoshi against the Appellant i.e. Peter Anthony Pinto and the Respondent No.2 i.e. Mrs. Mable Anthansio Pinto, praying therein to permanently restrain the Appellant and the Respondent No.2 from dispossessing the Respondent No.1 from Shop No.3 and Shop No.4 situated in Chawl known as Furniturewala Chawl, (Majid Abubakar Chawl), Irla Society

Road, Vile Parle (W), Mumbai (in short Suit Property) except by due process of law.

3. The Hon'ble City Civil Court, Dindoshi by Order dated 12.04.2019 decreed the said Suit and permanently restrained the Appellant and the Respondent No.2 from dispossessing the Respondent No.1 from the suit premises i.e. Shop No.3 & 4 except by following due process of law. The Appellant being aggrieved by the said Order has challenged the said Order by filing the present First Appeal.

4. During the pendency of the present First Appeal the Appellant and the Respondent No.1 discussed the disputes and issues amongst them and arrived at an amicable settlement in respect of all the disputes and/or claims between them with regard to shop no.3 and shop no.4 situated in Furniturewala Chawl, (Majid Abubakar Chawl), Irla Society Road, Vile Parle (W), Mumbai.

5. By Consent Terms dated 26.10.2015 Mrs. Mable Anthansio Pinto, the Respondent No.2 herein has received sum of Rs.25,00,000/- (Rupees twenty five lac only) from the Appellant towards her claim as regard to shop no.3 and 4 in Furniturewala Chawl, (Majid Abubakar Chawl), Irla Society Road, Vile Parle (W), Mumbai and that she has declared that

she has no right or claim or interest in the Suit Property. The name of the Respondent No.2 is, therefore, deleted from the Appeal.

6. The Appellant, therefore, decided to amicably settle the claims and disputes of the Respondent No.1 with regard to the Suit Property fully and finally so as to neither the Respondent No.1 nor any of his legal heir or agent or representative or any person whosoever through him shall ever claim any right, title or interest in the Suit Property.

7. The Respondent No.1 accordingly has agreed to settle all his claims and disputes as regards to the Suit Property including the right that has accrued by virtue of Judgment and Order dated 12.04.2019 passed in S.C. Suit No.2207 of 2019, with the Appellant for total consideration of Rs.69,00,000/- (Rupees sixty nine lac only) which will be paid by the Appellant to the Respondent in following manner :

- a) A cheque of Rs.5,00,000/- (Rupees five lac only) will be paid to the Respondent No.1 immediately upon signing of this Consent Terms and presenting the same to the Hon'ble Court. The Respondent No.1 accordingly confirms that he has received

Cheque of Rs.5,00,000/- from the Appellant.

- b) The balance of Rs.64,00,000/- (Rupees sixty four lac only) will be paid by the Appellant to the Respondent No.1 by way of 64 post dated cheques of Rs.1,00,000/- each, drawn in the name of Respondent No.1 viz. George Anthony Pinto to be paid each calendar month commencing from 07th August, 2019 to November, 2024. The details of post dated cheques are as under.

Sr. No	Date	Cheque No.	Bank Name	Amount (in Rs.)
1.	07.08.2019	468968	State Bank of India, Vile Parle (West).	1,00,000/-
2.	07.09.2019	468969	State Bank of India, Vile Parle (West).	1,00,000/-
3.	07.10.2019	076878	State Bank of India, Vile Parle (West).	1,00,000/-
4.	07.11.2019	468971	State Bank of India, Vile Parle (West).	1,00,000/-
5.	07.12.2019	468972	State Bank of India, Vile Parle (West).	1,00,000/-
6.	07.01.2020	468973	State Bank of India, Vile Parle (West).	1,00,000/-
7.	07.02.2020	468974	State Bank of India,	1,00,000/-

			Vile Parle (West).	
8.	07.03.2020	468975	State Bank of India, Vile Parle (West).	1,00,000/-
9.	07.04.2020	468977	State Bank of India, Vile Parle (West).	1,00,000/-
10	07.05.2020	468978	State Bank of India, Vile Parle (West).	1,00,000/-
11	07.06.2020	076879	State Bank of India, Vile Parle (West).	1,00,000/-
12	07.07.2020	468979	State Bank of India, Vile Parle (West).	1,00,000/-
13	07.08.2020	468980	State Bank of India, Vile Parle (West).	1,00,000/-
14	07.09.2020	468981	State Bank of India, Vile Parle (West).	1,00,000/-
15	07.10.2020	468982	State Bank of India, Vile Parle (West).	1,00,000/-
16	07.11.2020	468983	State Bank of India, Vile Parle (West).	1,00,000/-
17	07.12.2020	468984	State Bank of India, Vile Parle (West).	1,00,000/-
18	07.01.2021	468985	State Bank of India, Vile Parle (West).	1,00,000/-
19	07.02.2021	468986	State Bank of India, Vile Parle (West).	1,00,000/-
20	07.03.2021	468987	State Bank of India, Vile Parle (West).	1,00,000/-
21	07.04.2021	468988	State Bank of India, Vile Parle (West).	1,00,000/-
22	07.05.2021	468989	State Bank of India, Vile Parle (West).	1,00,000/-
23	07.06.2021	468990	State Bank of India, Vile Parle (West).	1,00,000/-
24	07.07.2021	076836	State Bank of India,	1,00,000/-

			Vile Parle (West).	
25	07.08.2021	076837	State Bank of India, Vile Parle (West).	1,00,000/-
26	07.09.2021	076838	State Bank of India, Vile Parle (West).	1,00,000/-
27	07.10.2021	076839	State Bank of India, Vile Parle (West).	1,00,000/-
28	07.11.2021	076840	State Bank of India, Vile Parle (West).	1,00,000/-
29	07.12.2021	076841	State Bank of India, Vile Parle (West).	1,00,000/-
30	07.01.2022	076842	State Bank of India, Vile Parle (West).	1,00,000/-
31	07.02.2022	076843	State Bank of India, Vile Parle (West).	1,00,000/-
32	07.03.2022	076844	State Bank of India, Vile Parle (West).	1,00,000/-
33	07.04.2022	076845	State Bank of India, Vile Parle (West).	1,00,000/-
34	07.05.2022	076846	State Bank of India, Vile Parle (West).	1,00,000/-
35	07.06.2022	076847	State Bank of India, Vile Parle (West).	1,00,000/-
36	07.07.2022	076848	State Bank of India, Vile Parle (West).	1,00,000/-
37	07.08.2022	076849	State Bank of India, Vile Parle (West).	1,00,000/-
38	07.09.2022	076850	State Bank of India, Vile Parle (West).	1,00,000/-
39	07.10.2022	076851	State Bank of India, Vile Parle (West).	1,00,000/-
40	07.11.2022	076852	State Bank of India, Vile Parle (West).	1,00,000/-

41	07.12.2022	076853	State Bank of India, Vile Parle (West).	1,00,000/-
42	07.01.2023	076854	State Bank of India, Vile Parle (West).	1,00,000/-
43	07.02.2023	076855	State Bank of India, Vile Parle (West).	1,00,000/-
44	07.03.2023	076856	State Bank of India, Vile Parle (West).	1,00,000/-
45	07.04.2023	076857	State Bank of India, Vile Parle (West).	1,00,000/-
46	07.05.2023	076858	State Bank of India, Vile Parle (West).	1,00,000/-
47	07.06.2023	076859	State Bank of India, Vile Parle (West).	1,00,000/-
48	07.07.2023	076860	State Bank of India, Vile Parle (West).	1,00,000/-
49	07.08.2023	076861	State Bank of India, Vile Parle (West).	1,00,000/-
50	07.09.2023	076862	State Bank of India, Vile Parle (West).	1,00,000/-
51	07.10.2023	076863	State Bank of India, Vile Parle (West).	1,00,000/-
52	07.11.2023	076864	State Bank of India, Vile Parle (West).	1,00,000/-
53	07.12.2023	076865	State Bank of India, Vile Parle (West).	1,00,000/-
54	07.01.2024	076866	State Bank of India, Vile Parle (West).	1,00,000/-
55	07.02.2024	076867	State Bank of India, Vile Parle (West).	1,00,000/-
56	07.03.2024	076868	State Bank of India, Vile Parle (West).	1,00,000/-
57	07.04.2024	076869	State Bank of India, Vile Parle (West).	1,00,000/-

58	07.05.2024	076870	State Bank of India, Vile Parle (West).	1,00,000/-
59	07.06.2024	076871	State Bank of India, Vile Parle (West).	1,00,000/-
60	07.07.2024	076872	State Bank of India, Vile Parle (West).	1,00,000/-
61	07.08.2024	076873	State Bank of India, Vile Parle (West).	1,00,000/-
62	07.09.2024	076874	State Bank of India, Vile Parle (West).	1,00,000/-
63	07.10.2024	076875	State Bank of India, Vile Parle (West).	1,00,000/-
64	07.11.2024	076876	State Bank of India, Vile Parle (West).	1,00,000/-

8. The Respondent No.1 acknowledges and admits receipt of amount of Rs.5,00,000/- through cheque bearing Cheque No.076880 and 64 post dated cheques drawn in his name towards full and final consideration of all his claims and/or rights in the Suit Premises.

9. It is declared by the Respondent No.1 that henceforth neither the Respondent No.1 nor his legal heirs or any person through him shall claim or raise any claim of any nature with regard to and/or on the Suit Property at any time in future.

10. The Respondent No.1 confirms that the Appellant was in use, occupation and possession of the Suit Premises and that henceforth only the Appellant or his heirs or any person

through him shall have right to occupy and keep possession of the Suit Premises and to deal with the Suit Premises.

11. The Respondent No.1 declares and confirms that he will not claim in any right or interest in the Suit Property and that he will close the Saving Account which he had opened in the name of M/s. New Perfect Tailor by giving address of the Suit Premises within 15 days from signing of these Consent Terms. The Respondent No.1 shall hand over the concerned closure papers of the said bank account to the Appellant.

12. The Respondent No.1 shall remove the material and goods from shop No.3 and shall hand over vacant possession of Shop No.3 to the Appellant on or before 12th July, 2019.

13. The Respondent No.1 shall hand over all the original papers including rent receipts of the Suit Property in his possession, power of attorney of the Appellant, light and telephone bills, income tax papers, etc., to the Appellant and shall not use those papers for any purpose whatsoever in future. The Respondent No.1 agrees and confirms that upon signing of these Consent Terms, the papers pertaining to shop no.3 & 4 i.e. of the Suit Property in his possession are null and void and he will not claim any interest or right on the basis of the said documents.

14. Upon signing of these Consent Terms and receipt of Rs.5,00,000/- (Rupees five lac only) and post dated cheques to the tune of Rs.64,00,000/- (Rupees sixty four lac only) the Suit Premises shall belong only to the Appellant and only the Appellant shall have exclusive right to use occupy and conduct his business in the said Suit Premises.

15. In the event that any untoward event happens to the Respondent No.1 before receipt of full payment, the Appellant shall make the balance payment in the same manner to the wife of the Respondent No.1. In the event wife of the Respondent No.1 is not surviving at that time, then the payment will be made to the son of the Respondent No.1.

16. The Respondent No.1 confirms that there is a suit pending before the Hon'ble Small Causes Court being Suit No.699 of 2014 and he agrees and undertakes to get the said suit withdrawn unconditionally in view of present settlement.

17. In case of dishonor of cheque the Respondent No.1 shall be entitled to recover the said amount in the manner as may be permissible under the provision of law, however, the commitment made by the Appellant to pay the said amount shall be taken as an undertaking to this Hon'ble Court.

18. In view of the aforesaid settlement arrived at between

the parties the present Appeal filed before this Hon'ble Court
be allowed with no order as to costs.

Dated this 8th day of July, 2019

Advocate for the Appellant

Appellant

**Advocate for the
Respondent No. 1__**

Respondent No. 2__

7. Hence, the following order.

- a) First appeal (Stamp) No.15657/2019 as well as pending civil applications are disposed of in terms of Consent Terms.
- b) The consent terms be treated as part and parcel of decree

(K.K.TATED, J.)

