

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

**FIRST APPEAL (ST.) NO.22037 OF 2019
WITH
CIVIL APPLICATION NO.3149 OF 2019
WITH
CIVIL APPLICATION NO.3150 OF 2019**

The Mumbai Metropolitan and Regional
Development Authority, Bandra (E),
Mumbai – 400 051.

.. Appellant

vs.

Ramlakhan Kanaiyalal Gupta and Anr.

.. Respondents

Mr.A.P.Shinde for the appellant

Mr.Vaibhav Gaikwad for the respondent no.1

**CORAM : K. K. TATED, J
DATE : SEPTEMBER 20, 2019**

P.C.:

. Heard.

2 Advocate Mr.Vaibhav Gaikwad submits that he received instruction to appear on behalf of Respondent no.1. He undertakes to file his Vakalatnama within one week from today.

Statement is accepted.

3 Advocate for appellant and Respondent no.1 submits that matter is settled out of court. They submit that both the parties are present in court. On behalf of appellant, Mr.Pandit Raghunath Togare entered into the witness box and Respondent no.1, Ramlakhan Kanaiyalal Gupta also entered into the witness box. Both of them admitted the contents of the Consent Terms as well as execution thereof. Learned counsel for the Respondent no.1 submits that he explained the contents of Consent Terms to Respondent no.1 in his own language i.e. Hindi. Same is taken on record and marked 'X' for identification.

Consent Terms reads thus:

"CONSENT TERMS"

1) *The Appellant has filed the instant First Appeal being aggrieved and dissatisfied by the impugned Judgment, Decree and Order dated 16th February, 2019 passed by the Ld. Judge, City Civil Court, Dindoshi, Mumbai in Suit No. 3075 of 2009.*

2) *The Appellant is the original Defendant No.2 while the Respondent No.1 is the Plaintiff and Respondent No.2 is the Defendant No.1 in a Suit seeking simplicitor injunction. The Appellant has not sought any reliefs against the Respondent No.2 in the present Appeal. Hence, the Appellant may be permitted to delete the Respondent No.2 from the cause title of the Appeal.*

3) *The dispute pertains to an illegal and*

*unauthorized structure admeasuring 10 x 10 situated in front of Bharat Nagar Police Chowki, Near Bharat Nagar, Sant Gyaneshwar Nagar, Bandra (E), Mumbai-51 (for short **suit property**).*

4) *Pending the aforesaid First Appeal, the Appellant and the first Respondent have decided to amicably settle the dispute and controversy involved in the present matter by way of present consent terms without inviting any observations and findings on the merits of the present matters.*

5) *Thus the parties have decided and agreed upon the following terms:-*

6) *It is mutually settled between the Appellant and the first Respondent that the first Respondent has voluntarily relinquished all his rights, interest and/or claim for rehabilitation and resettlement, in respect of the Suit property, accrued to him by virtue of the impugned Judgment, order and decree.*

7) *The first Respondent has made such voluntary relinquishment considering that the action of demolition was taken by the Authority for the purpose of construction of road, which purpose is in the larger interest of public at large.*

8) *In view of the above facts since the first Respondent has by these consent terms relinquished all his rights, interest and/or claims for rehabilitation and resettlement in lieu of the suit property, the first Respondent hereby states that there is no question of execution of the impugned Judgment, Decree and Order dated 16th February, 2019 passed by the Ld. Judge, City Civil Court, Dindoshi, Mumbai in Suit No. 3075 of 2009. By virtue of these settlement, the Respondent No.1 hereby declares and certifies that he is fully satisfied, being a judgment creditor and MMRDA is fully discharged from its liability arising out of aforesaid Judgment and Decree dated 16th February, 2019.*

9) *The first Respondent hereby undertakes that he will not file any proceedings to execute the impugned Judgment, Decree and Order dated 16th February, 2019 passed by the Ld. Judge, City Civil Court, Dindoshi, Mumbai in Suit No. 3075 of 2009.*

10) *The present Consent Terms shall be final and binding on all the parties and will come into operation forthwith. All the parties undertake to this Hon'ble Court to abide by the terms and conditions and the assurances mentioned hereinabove.*

11) *The parties have executed these consent terms out of their own free will and without any fraud, force, coercion, undue influence and after seeking the independent legal advice.*

12) *In view of the above Consent Terms the First Appeal and the pending Civil Application stands disposed of."*

4 Undertaking given by the parties is accepted.

5 First Appeal stands disposed of in terms of Consent Terms. Consent Terms be treated as part and parcel of decree.

6 In view of disposal of First Appeal, nothing survives in the Civil Application No.3149 of 2019 and 3150 of 2019. Same stands disposed of accordingly.

7 No order as to costs.

(K.K.TATED, J.)