

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

**APPEAL FROM ORDER (ST) NO.32308 OF 2016
WITH
CIVIL APPLICATION NO.329 OF 2017**

Mr. Sanjay U Vanzara .. APPELLANT

VERSUS

Mr. Milan U Vanzara and Ors. .. RESPONDENTS

Mr.S.P.Chavan for the appellant

Mr.Sankalan Das I/b Mr.P.P.Kadade for the respondent nos.1 and 2

Mr.Pranav Dhakane I/b Mr.Chetan Agrawal for the respondent no.6

**CORAM : K. K. TATED, J
DATE : MARCH 22, 2019**

P.C.:

. Heard.

2 By this Civil Application applicant is seeking condonation of 215 days delay in filing Appeal from Order.

3 The learned counsel for the applicant submits that by this Appeal from Order the defendant is challenging the order dated 2.2.2018 passed by City Civil Court, Dindoshi, Borivali Division, Mumbai in Suit No.304 of 2016 restraining him and defendant

nos.2, 3 and 4 from making any third party rights.

4 The learned counsel for the appellant submits that he received instruction to delete the name of Respondent nos.3, 4 and 5 who are subsequent purchaser of the property. Same is permitted. Amendment be carried out during the course of the day. Both the counsel submit that matter is settled out of court. They tendered consent terms dated 22.03.2019 duly signed by the appellant and respondent no.1 and 2 and their advocates which read thus:

**“CONSENT TERMS BETWEEN THE APPELLANT AND THE
RESPONDENTS 1 AND 2**

1. *The Appellant has filed the present AO before this Hon'ble Court challenging the order dated 2-2-2016 passed by the Ld. City Civil Court at Dindoshi Mumbai in Suit no. 304 of 2016.*
2. *The Respondent no. 1 (Original Plaintiff no. 1) is the brother and the Respondent no. 2 (Original Plaintiff no. 2) is the sister of the Appellant (Original Respondent no. 1). They are the sons and daughters of Late Mr. Upendra Jagjivandas Vanzara who passed away on 1-10-2014. Thereafter, one declaration cum memorandum was prepared by the aforementioned parties and it was decided that the Flat C 9 Damodar Bhavan, Vile Parle (W), Mumbai - 400056 shall be divided equally between the Respondents 1 and 2 and the Appellant.*

3. That however subsequently some disputes arose between the Appellant and Respondent no. 1 and 2 and there were various complaints and proceedings filed between them. However, the parties have mutually settled all their disputes against each other and all the previous litigations, complaints allegations stand withdrawn and the parties hereto have agreed to file Consent Terms in the present AO before this Hon'ble Court as hereinafter appearing to resolve all and entire disputes whatsoever absolutely and forever.

4. That in lieu of full and final settlement of the dispute, it is hereby agreed between the parties as hereinunder:-

a) The Respondents 3 to 5 have already paid a sum of Rs Rs 69,39,400/- to the Appellant on 6-6-2015 which is admitted by the Appellant.

b) The Appellant is entitled to receive Rs 50,00,000/- (Rupees Fifty Lacs) along with interest from the Respondent no. 6 which is due and balance amount in lieu of sale of the suit premises. It is further agreed that the Appellant shall get Rs 20,00,000/- along with interest and the Respondent no. 1 and Respondent no. 2 shall get Rs 15,00,000/- along with interest each out of the Rs 50,00,000/- along with interest. It is further agreed that the aforesaid monies be credited into the following joint bank account:-

Name of account holder:- Sanjay Vanzara
Milan Vanzara

	<i>Niti Nagori</i>
<i>Name of bank:-</i>	<i>Vijaya Bank</i>
<i>Type of account:-</i>	<i>Savings</i>
<i>IFSC:-</i>	<i>VJJB0005080</i>
<i>Account number:-</i>	<i>508001011004940</i>

- c) It is agreed between the parties hereto that after filing of the Consent Terms, all the Claims of the parties against each other save and except as mentioned herein shall come to an end and stand extinguished forever and the Appellant shall not be able to make any claim hence forth against the Respondents in any manner whatsoever in the light of consent term and the Respondents too shall not be able to make any claim henceforth against the appellant in any manner whatsoever.*
- d) The breach or non compliance of the terms shall be the breach of the Consent Terms.*
- e) All the Parties to these Consent Terms shall adhere to and be bound by the Consent Terms herein signed by them which constitute the entire understanding between them.*
- f) After filing the present Consent Terms, the parties hereto will be entitled for the Consent Award which will remain operative for execution against each other in case of the breach of the terms of consent terms. The parties shall proceed to withdraw other court cases and proceeding filed by them against each other unconditionally. The parties hereby unconditionally*

withdraw all the allegations and counter allegations made by the, against each other.

g) The Respondents 1 and 2 agree to withdraw CriMA/1166/2016 pending before the Ld. MM Court at Andheri against Appellant. The Respondents further agree to withdraw the Suit/304/2016 filed against the Appellant pending on the file of the Ld. City Civil Court at Dindoshi. The Appellant agrees to give his consent affidavit for quashing the criminal complaint by filing appropriate Petition before the respective Court.

h) By this Consent Terms, the dispute between the parties come to an end and it is therefore prayed to this Hon'ble Court to accept this Consent Terms and accordingly decree be drawn."

5 Both the counsel submit that appellant as well as Respondent no.1 and 2 are present in court. Appellant as well as Respondent nos.1 and 2 entered into the witness box. They admit the execution and contents of the Consent Terms. Hence, Consent Terms dated 22.03.2019 is taken on record and marked 'X' for identification. Same is accepted.

6 Appeal from Order as well as Civil Application stand disposed of in terms of consent terms.

7 No order as to costs.

(K.K. TATED, J.)