

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY AND ORIGINAL CIVIL JURISDICTION
IN ITS COMMERCIAL DIVISION**

**CONTEMPT PETITION NO.20 OF 2019
WITH
COMMERCIAL NOTICE OF MOTION NO.301 OF 2018
IN
COMMERCIAL SUIT NO.159 OF 2018**

Yashwant B. Shah and Anr.Petitioners

Vs.

Jitendra K. Shah and Ors.Respondents

**WITH
CONTEMPT PETITION NO.22 OF 2019
WITH
COMMERCIAL NOTICE OF MOTION NO.293 OF 2018
IN
COMMERCIAL SUIT NO.167 OF 2018**

Yashwant B. Shah and Anr.Petitioners

Vs.

Jitendra K. Shah and Ors.Respondents

Mr. Mutahhar Khan a/w. Mr. Medhavin Bhatt and Mr. Minal Jain i/b. MV Law Partners for petitioners.

Ms. Yasmin E. Tavaría a/w. Mr. Abhishek Yadav for respondents.

CORAM : K.R.SHRIRAM, J.

DATE : 2nd MAY 2019

P.C.:

CONTEMPT PETITION NO.20 OF 2019

1 After the contempt petition was filed, parties have entered into settlement and tendered minutes of settlement dated 2nd May 2019. The same signed by petitioner no.1, petitioner no.2, respondent no.1 and respondent no.3 is taken on record and marked “X” for identification. Mr. Khan and Ms. Tavaría state that their respective clients who have signed

the consent terms are present in Court and identify them.

2 Mr. Khan confirms having received a demand draft as mentioned in the minutes of settlement.

3 For ease of reference, the minute of settlement is scanned and reproduced hereinbelow :

X¹ J
2/5/19

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
CONTEMPT PETITION NO. 26 OF 2019
IN
NOTICE OF MOTION NO. 301 OF 2017
IN
COMMERCIAL SUIT NO. 159 OF 2017

1. Yashwant B. Shah		
2. Mehul Y. Shah		
Both adults, Mumbai Indian inhabitants		
having their residential address at Flat No		
401/402, A Wing, Pratiksha Tower, Opp.		
Old Tando Bus Depot, R.S. Ninkar Road,		
Mumbai 400 008		Plaintiffs
		(Orig. Defendant Nos. 1 & 2)
Versus		
1. Jitendra K. Shah		
2. Ibrahim Momin		
3. Lilavati K. Shah		
All Partners of M/s. Paradise Associates		
Having their address at 209, Kamakhyanagar		
Raja Bahadur M.H. Compound, Behind		
Everest Building, Tando Road,		
Mumbai 400 034.		
4. Rahul Yashwant Shah		
An adult, Mumbai Indian inhabitant,		
Having his residential address at Flat No. 402		
A Wing, Pratiksha Tower, Opp. Old Tando		
Bus Depot, R.S. Ninkar Road,		
Mumbai 400 008.		Respondents (Resp. Nos.
		1 & 2 Orig. Plaintiffs and
		Resp. Nos. 3 and 4 Orig. Deft.
		Nos. 3 and 4 respectively)

1

MINUTES OF SETTLEMENT BETWEEN THE PARTIES

Pursuant to several Meetings and discussions subsequent to the filing of the Petition and owing to the nature of the relationship between the Parties and their erstwhile partnership in the Firm Paradise Associates, and after mutually agreeing to resolve the matters amicably, the Petitioners and Respondents in the captioned Contempt Petition have arrived at and executed the Minutes of the Settlement arrived at, and are desirous of getting the Petition disposed of in the following terms:

- A. The Respondent Nos. 1 and 3 shall hand over a Demand Draft of Rs. 7,19,725/- (Rs. Seven Lacs Nineteen thousand Seven Hundred and Twenty Five only) to the Petitioners in the name of M/s. Yashwant Kumar Sureshchandra and Company vide Demand Draft no. 477174 dated 26/04/2019 drawn on Vijaya Bank, Naradevi Branch, Mumbai, on the execution of these Minutes before the Hon'ble Court on 02nd May 2019 as and by way of full and final settlement of all claims, past, present or which may arise in future in the operation of the said Partnership Firm M/s. Paradise Associates.
- B. ^{Petitioners} The Petitioners submit that neither they nor their concern M/s. Yashwant Kumar Sureshchandra and Company have any further claims against each other in respect of the said Partnership Firm Paradise Associates and are ready and willing to give up all rights and hereby agree and undertake that they would not hold each other liable for any further and future claims of any nature whatsoever in the said Partnership Firm of M/s. Paradise Associates.
- C. The Petitioners submit that the payment of the aforementioned amount of Rs. 7,19,725/- (Rs. Seven Lacs Nineteen thousand Seven Hundred and Twenty Five only) would also absolve the Respondent Nos. 1 and 3 from any claims in respect of the sale proceeds from Flat No. 100 which the Petitioners have claimed as due and payable by the Respondent Nos. 1 and 3 to the Petitioners and the said payment of Rs. 7,19,725/- would finally discharge the said Respondent Nos. 1 and 3 from all liabilities and no further claim of any nature would be raised by the Petitioners on the said Respondent Nos. 1

and 3 either now or in future in respect of the said Flat No. 1001 or in respect of the operations and working of the said Partnership Firm of M/s. Paradise Associates.

- D. The Petitioners also agree and confirm that on execution of these presents, their concern M/s. Yashwanthkumar Sureshchandra and Company shall also have no claim of any nature whatsoever against the said Respondent Nos. 1 and 3 and that Respondent Nos. 1 and 3 would stand fully discharged of any and/or all liabilities in respect of the said Concern M/s. Yashwanthkumar Sureshchandra and Company who acquits and absolves the said Respondent Nos. 1 and 3 from all claims, liabilities and acquits them from the same.
- E. In view of the above said, the Petitioners hereby unconditionally withdraw all allegations, claims and contentions raised by them in the captioned Petition and discharge the Respondent Nos. 1 and 3 from all claims, allegations and any future claims of any nature whatsoever.
- F. The Consent Terms filed herein do not in any manner supersede, alter and/or modify the Original Consent Terms filed by Order dated 31st January 2018 in the above captioned Suit as more particularly mentioned in the above Contempt Petition. However, though the said Consent Terms, though valid and binding on the Parties hereto, shall be deemed to have been complied with in full by the execution of these Minutes.
- G. The Petitioners hereby agree and the Respondent Nos. 1 and 3 have no objection to dispose of the Captioned Contempt Petition in the abovesaid Terms.

M.H. Bhate
02-05-19
Advocate for the Petitioners

[Signature]
Advocate for Respondent Nos. 1 and 3

1. Petitioner No. 1 *[Signature]* 2/5/19 Respondent No. 1 *[Signature]*
2. Petitioner No. 2 *[Signature]* 2/5/19 2. Respondent No. 3 *[Signature]*

FILED BY: SURESH P. S. RAO

4 In view of the above, petition stands disposed as against all respondents.

CONTEMPT PETITION NO.22 OF 2019

1 After the contempt petition was filed, parties have entered into settlement and tendered minutes of settlement dated 2nd May 2019. The same signed by petitioner no.1, petitioner no.2, respondent no.1 and respondent no.3 is taken on record and marked "X" for identification. Mr. Khan and Ms. Tavaría state that their respective clients who have signed the consent terms are present in Court and identify them.

2 Mr. Khan confirms having received a demand draft as mentioned in the minutes of settlement.

3 For ease of reference, the minute of settlement is scanned and reproduced hereinbelow :

IN THE HIGH COURT OF JUDICATURE AT BOMBAY ORDINARY ORIGINAL CIVIL JURISDICTION CONTEMPT PETITION NO. 22 OF 2019 IN NOTICE OF MOTION NO. 293 OF 2017 IN COMMERCIAL SUIT NO. 167 OF 2017	
1. Yashwant B. Shah	1
2. Mohul Y. Shah	1
Both adults, Mumbai Indian inhabitants having their residential address at Flat No. 402/402-A Wing, Pratiksha Tower, Opp. Old Tarden Bus Depot, R.S. Ninkar Road, Mumbai 400 608.	1
Versus	
1. Jitendra K. Shah	1
2. Cornelia Mounia	1
3. Lilavati K. Shah	1
All Partners of M/s. Paradise Associates Having their address at 209, Komarkhe Road, Raja Bahadur MIF Compound, Behind Everest Building, Tarden Road, Mumbai 400 608.	1
4. Sachin Mohul Shah	1
An adult, Mumbai Indian inhabitant, having their residential address at Flat No. 402-A Wing, Pratiksha Tower, Opp. Old Tarden Bus Depot, R.S. Ninkar Road, Mumbai 400 608.	1
5. Pratik Kumar Bhagwanji Sachin	1
6. Shah's Pratik Kumar Sachin	1
Both adults, Mumbai Indian inhabitants, Both having their residential address at	1

Petitioners
(Orig. Defendant Nos. 1 & 2)

52, Uttarakshi J.A. Rahul Road, Prabhadevi,
Mumbai 400 025.

..... Respondents (Resp. Nos.
1 & 2 Orig. Plaintiffs and
Resp. Nos. 3 to 6 Orig. Defct.
Nos. 3 to 6 respectively)

[Handwritten signatures and initials]

MINUTES OF SETTLEMENT BETWEEN THE PARTIES

1. Pursuant to several Meetings and discussions subsequent to the filing of the Petition and looking to the nature of the relationship between the Parties and their erstwhile partnership in the Firm Paradise Associates, and after mutually agreeing to resolve the matters amicably, the Petitioners and Respondents in the captioned Contempt Petition have arrived at and executed the Minutes of the Settlement arrived at, and are desirous of getting the Petition disposed of in the following terms:

A. The Respondent Nos. 1 and 2 shall hand over a Demand Draft of Rs. 7,19,725/- (Rs. Seven Lakhs Nineteen thousand Seven Hundred and Twenty Five only) to the Petitioners in the name of M/s. Yashwanth Kumar Sureshchandra and Company vide Demand Draft No. 177471 dated 06/04/2019 drawn on Vjaya Bank, Gauddevi Branch, Mumbai, on the execution of these Minutes before the Hon'ble Court on 02nd May 2019 as and by way of full and final settlement of all claims, past, present or which may arise in future in the operation of the said Partnership Firm M/s. Paradise Associates.

B. ^{Parties} The Parties submit that neither they nor their concern/s and/or partnership/s have any further claims against each other in respect of the said Partnership Firm, Paradise Associates and are ready and willing to give up all rights, and hereby agree and undertake that they would not hold each other liable for any past, present and/or future claims of any nature whatsoever in the said Partnership Firm of M/s. Paradise Associates.

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C. The Petitioners submit that the payment of the aforementioned amount of Rs. 7,19,725/- (Rs. Seven Lakhs Nineteen Thousand Seven Hundred and Twenty Five only) would also absolve the Respondent Nos. 1 and 2 from any claims in respect of the sale proceeds from Flat No. 1001 which the Petitioners have claimed as due and payable by the Respondent Nos. 1 and 2 to the Petitioners and the said payment of Rs. 7,19,725/- (Rs. Seven Lakhs Nineteen Thousand Seven Hundred and Twenty Five only) would finally discharge the said Respondent Nos. 1 and 2 from all liabilities and no further claim of any nature would be raised by the Petitioners on the said Respondent Nos. 1 and 2 either now or in future in respect of the said Flat No. 1001 or in respect of the operations and working of the said Partnership Firm of M/s. Paradise Associates.

D. The Petitioners also agree and confirm that on execution of these presents, their concern M/s. Yashwanikumar Suraschandra and Company shall also have no claim of any nature whatsoever against the said Respondent Nos. 1 and 2 and that Respondent Nos. 1 and 2 would stand fully discharged of any and/or all liabilities in respect of the said Concern M/s. Yashwanikumar Suraschandra and Company who acquires and absolves the said Respondent Nos. 1 and 2 from all claims, liabilities and acquits them from the same.

E. In view of the above said, the Petitioners hereby unconditionally withdraw all allegations, claims and contentions raised by them in the captioned Petition and discharge the Respondent Nos. 1 and 2 from all claims, allegations and any future claims of any nature whatsoever, subject to what is stated hereinabove.

F. The Consent Terms filed herein do not in any manner supersede, alter and/or modify the Original Consent Terms filed by Order dated 31st January 2018 in the above captioned Suit as more particularly mentioned in the above Contempt Petition. However, though the said Consent Terms, though valid and binding on the Parties hereto, shall be deemed to have been complied with in full by the execution of these Minutes.

Handwritten signatures and initials of the parties and the court, including a signature that appears to be 'Gauri Gade' and another that appears to be 'Gauri Gade' with a date '20/12/19'.

- C. The Petitioners hereby agree and the Respondent Nos. 1 and 3 have no objection to dispose of the Captioned Contempt Petition in the aforesaid Terms.

M. M. Bhatt
02-03-2019
Advocate for the Petitioners

J. Sawant
Advocate for Respondent Nos.
1 and 3.

1. Petitioner No. 1 Yashwant Shukla
21/5/19

1. Respondent No. 1 Shankar

2. Petitioner No. 2 Shah
21/5/19

2. Respondent No. 3 Shankar
TITIMBARA, SHANKAR P.O. A. of H.B.

4 In view of the above, petition stands disposed as against all respondents.

(K.R. SHRIRAM, J.)