

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

SUIT No. 228 OF 2014

Majas Land Development Corporation ..Plaintiff.
Vs
Santoshkumar R. Mishra & Ors ..Defendants.

Mr. Kishore Jain i/by Divya Jain for the Plaintiff.
Ms. Anita Castelino i/by Mr. Bruno Castelino, Advocate for defendant
Nos. 2 to 4.
Ms. Amit Shastri, AGP for defendant Nos. 5 to 7.

CORAM : B.P. COLABAWALLA, J.
DATED :- 5th SEPTEMBER, 2019.

P.C. :-

1. Today when the suit is called out, the plaintiff and defendant Nos. 2, 3 and 4 through their Advocate have tendered Consent Terms dated 5th September, 2019 under which the disputes in the present suit have been settled. As far as defendant No.1 is concerned, he has not been appearing in this suit all through out, though served. This includes all the interlocutory proceedings that were filed in the present suit. In fact, by order dated 17th July, 2015 this Court had directed the office to issue notice to defendant No.1,

directing him to remain present before this Court on 22nd July, 2015 at 3:00 p.m. This notice was duly served on defendant No.1 vide the office notice dated 20th July, 2015 and which was delivered by hand delivery. The service report states that the said notice issued to defendant No.1, having his address at Mumbai, was duly served as the notice was accepted by Mr. Prakash on behalf of defendant No.1. The service report is dated 21st July, 2015. Despite this service, defendant No.1 even failed to appear before this Court on 22nd July, 2015 or any time thereafter. In any event, the learned Advocate for the plaintiff as well as defendant Nos. 2,3 and 4 have stated that defendant No.1 not claimed any right, title or interest in the property which is the subject matter of the present suit.

2. The Consent Terms tendered by the plaintiff and defendant Nos. 2 to 4 inter alia sets out the reliefs sought for by the plaintiff in relation to certain documents that were executed by Mr. R Ramchandran Pillai, the erstwhile partner of the plaintiff, in favour of defendant No.1 as well as the Development Agreement executed by and between the plaintiff and defendant Nos. 2 and 3. There are two other documents also referred to in the Consent Terms, namely, Irrevocable Power of Attorney dated 1st March, 2006

and an undated Deed of Conveyance of February, 2011 registered with the Sub-Registrar of Assurances at Andheri on 5th February, 2011. The Consent Terms provide that these documents and as more particularly set out in Clause (2) of the Consent Terms are ordered, decreed and declared as cancelled, and all acts, deeds and things done or carried out under the same or in pursuance thereof, are ordered, decreed and declared to be null and void and of no consequence whatsoever. These Consent Terms have been signed by Mr. Madhusudan Vakharia, a partner of the plaintiff who is present in Court as well as Mr. Roop Raj (defendant No.4) for himself and in his capacity as a partner of defendant Nos. 2 and 3. Even Mr. Roop Raj is present in the Court. The Consent Terms have also been signed by Advocate for the plaintiff as well as the Advocate for defendant Nos. 2 to 4. The signatories to these Consent Terms have stated before me that they have understood the contents of the Consent Terms and have entered into the same of their free volition. The Advocate for the plaintiff as well as Advocate for defendant Nos. 2 to 4 have also identified the signatures of their respective clients.

3. In these circumstances, the Consent Terms dated 5th September, 2019 entered into between the plaintiff and defendant

Nos. 2 to 4 are taken on record and marked “X” for identification.

The above suit is disposed of in terms of the Consent Terms.

4. Considering that defendant Nos. 5 to 7 are only formal parties in the present suit and are not the contesting defendants, the suit against defendant Nos. 5 to 7 stands dismissed. No order as to costs. Refund of Court fees, if any, as per rules.

(B.P. COLABAWALLA, J.)