

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

**SUIT NO.292 OF 2018
WITH
NOTICE OF MOTION NO.499 OF 2018
IN
SUIT NO.292 OF 2018**

Shantilal V. Kothari and Anr.Plaintiffs

Vs.

M/s. AVI Housing and Anr.Defendants

Mr. N.N. Vaishnawa a/w. Ms. Nupur Banerjee I/b. M/s. N. N. Vaishnawa and Company for plaintiff.

Mr. Shantilal V. Kothari, plaintiff present.

Mr. Bipin J. Joshi for defendants.

Mr. Priyank C. Chabadia, partner of defendant no.1 present.

Mr. Pares V. Chabadia, defendant no.2 present.

CORAM : K.R.SHRIRAM, J.

DATE : 25th JANUARY 2019

P.C.:

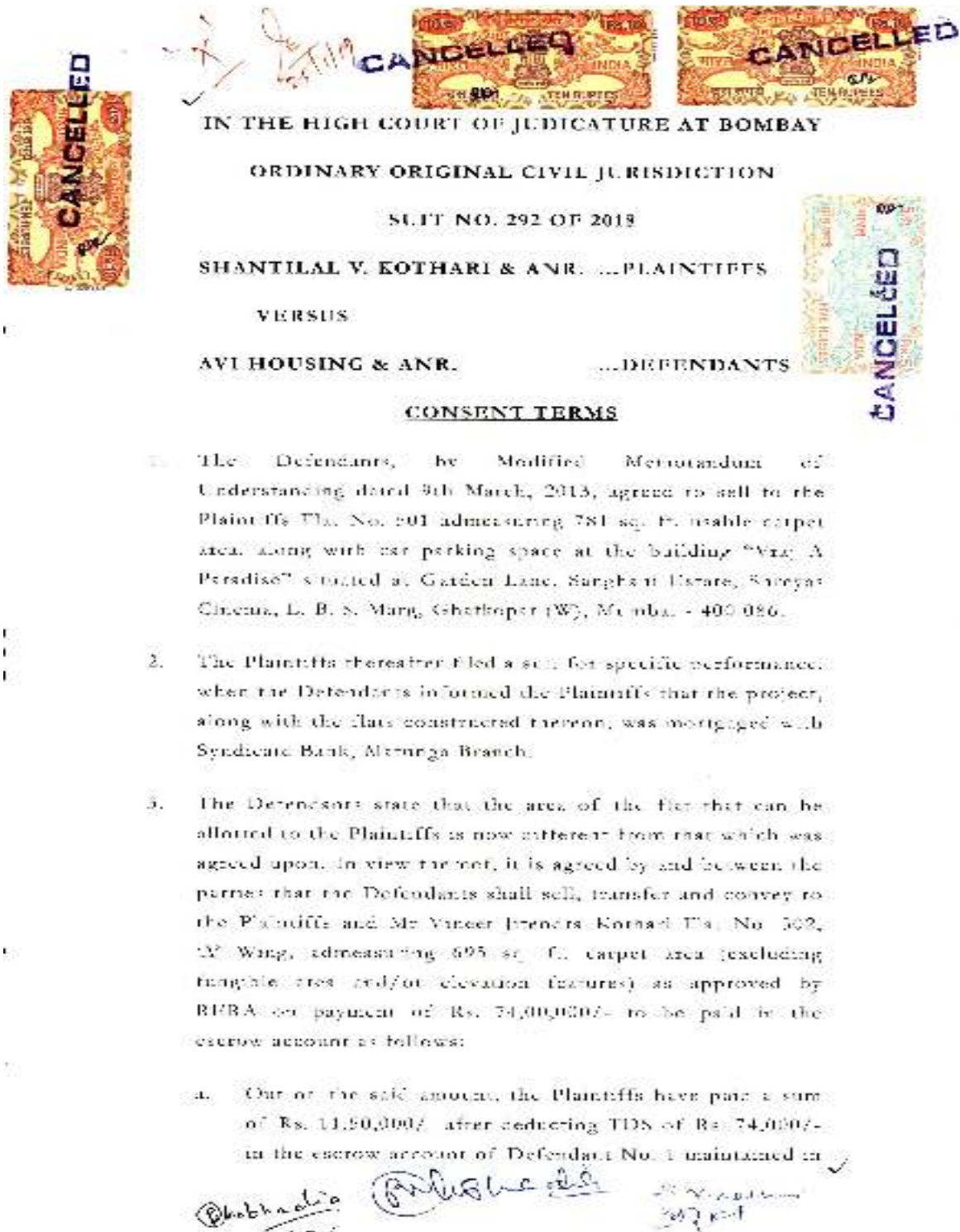
1 Parties have entered into consent terms dated 25th January 2019. The consent terms signed by plaintiffs, partner of defendant no.1, defendant no.2 and their respective advocates is taken on record and marked "X" for identification. Mr. Vaishnawa and Mr. Joshi state that the signatories to the consent terms are present in Court and identify them.

2 Order in terms of the consent terms. All undertakings given in the consent terms are accepted and so ordered.

3 Suit accordingly stands disposed in terms of the consent terms. Refund, if any, of court fees in accordance with rules. All interim

applications stand disposed. All interim orders also stand vacated.

4 For ease of reference, a scanned copy of the consent terms is reproduced hereinbelow :



✓
 Syndicate Bank, Matunga (Main Branch): Account No. 500510100006440.

3. In view of the said payment, the Syndicate Bank has issued a no-objection certificate for sale of the said Flat No. 502.

a. It is further agreed by and between the parties that the Plaintiffs shall pay the balance sum of Rs. 61,76,000/- within thirty days of demand in the said escrow account of Defendant No. 1 maintained with Syndicate Bank, being Account No. 500510100006440 against vacant and peaceful possession of Flat No. 502, which shall be given by the Defendants to the Plaintiffs and Mr Vineer Kothari after obtaining full occupancy certificate and commencement certificate from the MCGM.

4. The Defendants undertake to furnish the Plaintiffs with full occupation certificate and commencement certificate to be obtained from the MCGM. The Defendants also undertake to hand over a no-lier certificate from Syndicate Bank in respect of Flat No. 502 to the Plaintiffs on payment of the balance sum of Rs. 61,76,000/-. The Defendants further undertake to provide a GST Certificate to the Plaintiff.

5. The Defendants undertake not to claim any interest from the Plaintiffs for any delay in the project on the part of the Defendants. The Plaintiffs undertake to pay the balance amount as stated hereinabove.

6. The Defendants undertake to complete the project and handover possession, after obtaining occupation certificate and commencement certificate, on or before 31st December, 2019.

7. With a view to safeguard the interests of the parties, the Plaintiffs and Defendants agree that the Court Receiver, High Court, Bombay be appointed as the Receiver in respect of Flat No. 502 in execution of a decree for specific

[Signature]
[Signature]

[Signature]
 31/12/19

performance in favour of the Plaintiffs and against the Defendants with further directions to appoint the Plaintiffs as the agents of the Receiver in respect thereof. The Receiver shall take formal possession of the suit flat and shall handover vacant and peaceful possession to the Plaintiffs and Mr Vineet Kothari only after the payment of the balance sum of Rs. 61,76,000/- by the Plaintiffs in the escrow account no. 500510100006440 of Defendant No. 1 maintained with Syndicate Bank, Marunga Branch. The Court Receiver shall stand discharged on handing over peaceful and possession of Flat No. 502 after grant of occupancy certificate and commencement certificate and after payment of the balance consideration by the Plaintiffs as aforesaid, without passing accounts and on payment of the Court Receiver's costs and charges by the Plaintiffs.

8. It is agreed by and between the parties that the Plaintiffs and Mr Vineet Jitendra Kothari shall be entitled to sell, transfer and convey the said flat after they have paid the entire consideration amount and after the Receiver is discharged, to any third party without paying any transfer fees to the Defendants. The Defendants shall not ask for any transfer fees for sale, transfer or conveyance of the said flat to any intending purchaser.
9. The Defendants shall also allot one car parking space for each of the said flats at no additional cost
10. The agreement for sale to be executed by the Defendants in favour of the Plaintiffs and Mr Vineet Jitendra Kothari is approved by the parties hereto and the Plaintiffs agree and undertake to make payment of the consideration payable under the said agreement to the Bank and to the Defendants, particularly towards share money, advance, maintenance, etc.
11. The Plaintiffs agree and declare that, other than the flat as mentioned hereinabove, the Plaintiffs have no claim of whatsoever nature in respect of the flats referred to in the Memorandum of Understanding or any other agreement, and

Anubhadr *Anubhadr*

S. V. Kothari
3/12/14

- ✓ except the flat as mentioned in these consent terms, the Plaintiffs have no claim on any other flat in the said project.
2. Except for the amounts as mentioned hereinabove to be paid by the Plaintiffs in the escrow account at Syndicate Bank, the Defendants shall have no claim of any nature whatsoever against the Plaintiffs.
 3. The parties shall bear all GST charges as applicable in equal share.
 4. The parties withdraw the allegations made against each other.
 5. The Plaintiffs undertake to bear all expenses and costs that may be payable to the Court Receiver, High Court, Bombay.
 6. No order as to costs. ✓

Mumbai, dated this 25th day of January, 2019

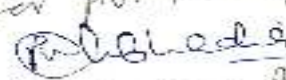
✓ S. V. Kothari
Plaintiff No. 1
(Shantilal V. Kothari)

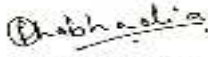
✓ G. R. D.
Plaintiff No. 2
(G. R. D. Umrao)

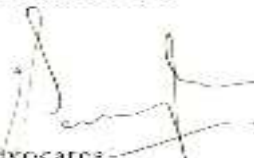

Advocates
for the Plaintiffs

INTERPRETED by me in Hindi to
Rajesh P. Shantilal V.
Sworn Interpreter Kothari only.
High Court, Bombay
Date: 25/01/2019

INTERPRETED by me in Hindi to
Rajesh P. to Umrao S.
Sworn Interpreter Kothari only.
High Court, Bombay
Date: 25/01/2019

For Mr. Hemanth

Defendant No. 1
(Hemanth Chabaria)


Defendant No. 2
(Hemanth Chabaria)


Advocates
for the Defendants

5 All to act on authenticated copy of this order.

(K.R. SHRIRAM, J.)