

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

**COMMERCIAL SUIT NO.822 OF 2018
WITH
COMMERCIAL NOTICE OF MOTION NO.2327 OF 2018
IN
COMMERCIAL SUIT NO.822 OF 2018**

A.A. Estate Private Limited Plaintiff

Vs.

Sanyas Ashram Trust and Ors. Defendants

Mr. Pritvish Shetty i/b. Vidhii Partners for plaintiff.

Mr. Anand Gupta, authorised signatory of plaintiff present.

Mr. Krishna K. Holambe Patil for defendants.

Mr. Kapil Puri, defendant no.8 present.

CORAM : K.R.SHRIRAM, J.

DATE : 2nd MAY 2019

P.C.:

1 At the outset, the counsel for plaintiff tenders draft amendment to the plaint. Defendants have no objection. The same is taken on record and marked "X" for identification.

2 Leave to amend the plaint granted. Amendment to be carried out during the course of today.

3 Plaintiff and defendants have entered into consent terms dated 2nd May 2019. The consent terms signed by the authorised signatory of plaintiff one Anand Gupta, President of defendant no.1 one Swami Kapil Puri and Constituted Attorney of other defendants, the same Swami Kapil Puri and their respective advocates is taken on record and marked "X-1" for

identification. The counsel for plaintiff and defendants state that the signatories of plaintiff and defendants are present in Court and identify them.

4 Order in terms of the consent terms. All statements and undertakings are accepted.

5 For ease of reference, the consent terms is scanned and reproduced hereinbelow :

X-1 6/3/19

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
COMMERCIAL SUIT NO.822 OF 2018**

A.A. Estate Private Ltd.)
A Group company of RNA Builders (A.A.))
having its Administrative office at 1, Rajkamal)
Opp. University Campus, CST Road, Kalina)
Santacruz (East), Mumbai - 400 098)
And)
Head office at RNA Corporate Park Next to Collector's)
Office, Kalamagar, Bandra (East), Mumbai 400 051) Plaintiff

Versus

1. Sanyas Ashram Trust)
A charitable trust constituted under the)
Bombay Public Trust Act vide a Trust Deed dated)
9th October, 1952 and having its registered office at)
Sanyas Ashram, Vile Parle (W), Mumbai -400 056)
Along with its Trustees)

2. Swami Gopalnand Giri)
Residing at Sanyas Ashram, V.P. Road, Vile Parle)
(W), Mumbai -400 056 **EXPIRED**)

3. Swami Vishveshwaranand Mahamandirakshwar)
Aged Adult residing at Sanyas Ashram)
Vile Parle (W), Mumbai -400 056)

4. Swami Abhedanandji)
Age 60 years, residing at Overprachha Vibyspeeth)
Badalpur)

5. Shree Maheshwaranand Sanghved)
Sankat Mukhvidhyalaya Trust, a charitable trust)
constituted vide a Trust Deed dated 12th December,)
1996 and registered with Uttar Pradesh Government)
Having its registered office at Grishanand Ashram)
Surat Giri Bungalows, Sanyas Road, Kankhal, Haridwar)
Uttar Pradesh. Along with its Trustees)

6. Swami Ganeshanand)
Age 58 years,)
Residing at Sanyas Ashram, V.P. Road,)
Vile Parle (W), Mumbai -400 056)

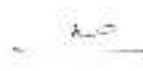
7. Swami Vishveshwaranand Giriji)
Registered office at Grishanand Ashram, Suratgiri)
Bangla, Sanyas Road)

SKP

Kankhal, Haridwar, Uttar Pradesh	)
8. Kapil Pun	)
Age 65 years	)
Residing at Sanyas Ashram, V.P. Road	)
Vic Parle (W), Mumbai -400 056	)
9. Swami Gupasanand Giri	)
Age 72 years	)
Residing at Sanyas Ashram, V.P. Road,	)
Vic Parle (W), Mumbai -400 056	)
EXPIRED	
10. Swami Satyaprakashanandji	)
Age 75 years	)
Residing at Sanyas Ashram, V.P. Road,	)
Vic Parle (W), Mumbai -400 056	)
	) Defendants
RETIRED	
11. Swami Kamalanand Age 45 years	)
12. Swami Viswanuparanand Age 35 years.	)
both Residing at Sanyas Ashram, V.P. Road	)
Mumbai -400 056	)
NEW TRUSTEES of Defendant no.5.	)

CONSENT TERMS

1. During the pendency of the above Suit, the parties hereto have amicably decided to settle and settled all their disputes and differences in respect of the Memorandum of Understanding dated 22nd October 2010 assigning the development rights in favour of the Plaintiff by the Defendants. Plaintiffs have authorized to Mr. Anand Gupta to execute and sign these consent terms by resolution dated 25.04.2019. A copy of the resolution by plaintiff dated 25.04.2019 is annexed hereto and marked as **Exhibit "A"**. Similarly defendant no 1 have authorized to Swami Kapil Pun to execute and sign these consent terms by resolution dated 21.04.2019 copy of the resolution by defendant no.1 dated 21.04.2019 is annexed hereto and marked as **Exhibit "B"** and defendant no 5 have authorized to Swami Kapil Puri to execute and sign and sign these consent terms by resolution dated 23.04.2019 copy of the resolution by defendant no.5 dated 23.04.2019 is annexed hereto and marked as **Exhibit "C"**





2. The parties hereby agree, admit, confirm and declare that the Plaintiff has assigned and surrendered their right and interest accrued under the Memorandum of Understanding dated 22nd October 2010 in favour of M/s. Pushpam Enterprises, a sole proprietary concern of the Sole Proprietor Mr. Manoj S. Agarwal (HUF) through its Karta and Manager Mr. Manoj S. Agarwal and the Defendants have consented for assignment and surrender of right and interest of the Plaintiff under the said Memorandum of Understanding dated 22nd October 2010 in favour of M/s. Pushpam Enterprises, a sole proprietary concern of the Sole Proprietor Mr. Manoj S. Agarwal (HUF) through its Karta and Manager Mr. Manoj S. Agarwal by Deed of Assignment dated 25.04.2019. The parties hereby further agree, admit, confirm and declare that all the terms and conditions of the Deed of Assignment dated 25.04.2019 shall be binding upon them. A copy of the said Deed of Assignment dated 25.04.2019 is annexed hereto and marked as Exhibit "D".
3. The Defendants confirm and agree to pay and the Plaintiff agrees to receive refund of amount of Rs. 1,31,61,750/- (Rupees one Crore Thirty one Lakhs sixty one thousand and seven hundred and fifty Only) by RTGS drawn on Ueno Bank Vile Parle WEST, Mumbai from Sanyas Ashram, Vile Parle Mumbai, and Rs. 87,74,500/- (Rupees eighty seven lakhs seventy four thousand and five hundred only by RTGS drawn on Vijaya Bank Vile Parle WEST, Mumbai from Maneewaranand Samvad S M Trust, Vile Parle Mumbai both by RTGS in Developers accounts no.1517214000020 in the name of A.A. Estate Private Ltd. With Canara Bank, Bandra East, Mumbai having IFSC code CNRB0001517, being refund of the amount paid by the Plaintiff to the Defendants and now refundable by the Defendant to the Plaintiff, immediately after these consent terms are signed by the parties. Thus, nothing remains to be due and payable

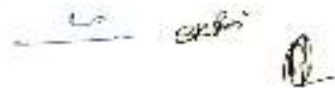
by the Defendants to the Plaintiff on the date of execution of the present Consent Terms.

4. The Plaintiff agree, admit, confirm and declare that they shall receive from the within named NEW DEVELOPER, immediately after the signing of the consent terms by the parties, a sum of full and final consideration amount of Rs.5,81,63,750/- (Rupees Five Crores Eighty one Lakhs sixty Three Thousand Seven Hundred and Fifty Only) from M/s. Pushpam Enterprises, a sole proprietary concern of the Sole Proprietor Mr. Manoj S. Agarwal (HUF) through its Karla and Manager Mr. Manoj S. Agarwal by Banker's Cheque No 050330 dated 30.04.2019 for Rs.5,81,63,750/- (Rupees Five Crores Eighty one Lakhs sixty Three Thousand Seven Hundred and Fifty Only) drawn on HDFC Bank, Shopper's Stop, S.V. Road, Andheri (W), Mumbai being full and final consideration amount payable by them to the Developer under these presents against assignment and surrender of Plaintiff's rights under the development rights accrued to them under the said Memorandum of Understanding dated 22nd October 2010 and thus, nothing will remain to be received by the Plaintiff on the date of execution of the present Consent Terms after the handover of the above mentioned Banker's Cheque and the store stated RTGS payment.

5. Thus, the Plaintiff agrees, admits, confirms and declares that it shall receive an amount of Rs.3,01,00,000/- against assignment and surrender of their rights accrued to them under the said Memorandum of Understanding dated 22nd October 2010 and they agree, admit and confirm that they have surrendered and assigned their rights in favour of M/s. Pushpam Enterprises, a sole proprietary concern of the Sole Proprietor Mr. Manoj S. Agarwal (HUF) through its Karla and Manager Mr. Manoj S. Agarwal

6. The Plaintiff, agrees, admits and declare that against receipt of above referred payments, it has surrendered their right, under the said Memorandum of Understanding dated 22nd October 2010. The Plaintiff further declares and undertake to Hon'ble Court that it has no claim of whatsoever nature against the Defendant and suit property.
7. The Parties confirm that M/s. Pushpam Enterprises, a sole proprietary concern of the Sole Proprietor Mr. Manoj S. Agarwal (HUF) through its Karta and Manager Mr. Manoj S. Agarwal in whose favour the has assigned all its rights, and interest has been introduced to the Plaintiff by the Defendants and the said assignment is complete and binding on all parties. After the Assignment in terms of the Deed of Assignment and these consent terms, no further right, interest, obligation or liability lies on the Plaintiff in respect of the suit property and/or in respect of the Memorandum of Understanding dated 22nd October, 2010 except any third party rights. Interest, obligation or liability created by Plaintiff from the date of signing of Memorandum of Understanding dated 22nd October, 2010 till the date of signing of these consent terms.
8. The Plaintiff hereby undertakes and declares that it has not created any third party rights of any nature whatsoever in respect of their rights arising out of the Memorandum of the Understanding dated 22nd October 2010. Nevertheless the Plaintiff hereby indemnifies and keep indemnified the Defendants against any claims, if at all, if any third party claims that the Plaintiff has created any third party rights in respect of their rights arising out of the Memorandum of the Understanding dated 22nd October 2010.



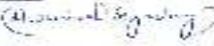
8. The Plaintiff hereby undertakes to withdraw the complaint filed by them to Charity Commissioner Mumbai against confirming party. The Plaintiff hereby undertakes to withdraw all and or any other complaint or proceeding filed by them if any against confirming party.

10. Plaintiff hereby undertakes to return original MOU dated 22nd October 2010, Power of Attorney and all original tri parte agreements with tenants and other such documents within 15 days of the date of signing these consent terms.

11. The Suit be disposed of accordingly.

12. Court Fees be refunded as per Rules.

13. No order as to costs.


 PLAINTIFF (4. signed) 
 FOR VISHU DAKINCHI, Advocate
 Advocate for plaintiff

Swami Karpal ji
208.3 for himself & others
FOR SANYAS ASHRAM TRUST
Swami Karpal ji
PRESIDENT
Swami Karpal ji
MAHESHWARANAND SANYAS S.M. TRUST
 CA TO DEFENDANTS
Swami Karpal ji
K. R. Shriram, J.
 Advocate for defendants

Dated this 2nd day of May 2019.

6 Suit accordingly disposed in terms of the consent terms. Refund of court fees, if any in accordance with rules. All interim applications stand disposed and all interim orders also stand vacated.

(K.R. SHRIRAM, J.)