

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

WRIT PETITION NO.3886/2019

Manekben Rama Tandel and Anr. Petitioners

Vs.

Dy.Collector (HQ) Respondents

Mr.Manoj M. Badgujar for the Petitioners

Mr.H.S.Venegavkar for the Respondents

**CORAM: K.K.TATED &
N.R.BORKAR, JJ.**

**DATED : MAY 04, 2021
(VIDEO CONFERENCING)**

P.C.

. Heard.

2. Today the matter is shown on board pursuant to the praecipe dated 30.04.2021 filed by the Advocate for the Respondent.

3. Both the counsel submit that matter is settled out of court. They tendered the Consent Terms. Same is taken on record and marked 'X' for identification. Same reads thus:

-.: CONSENT TERMS :-

1. The Petitioner has challenged Judgment and order dated 18.03.2019 passed by Respondent,

Dy. Collector, HQ. By the impugned order respondent, Dy. Collector, has directed Petitioner to remove the alleged encroachment on Government land, west of the land bearing Survey No. 9/2, 10/2, 6/1, 6/2 situated at Kathiria, Nani Daman, Daman.

2. During pendency of present Writ Petition, on 15th April 2021 parties have discussed the issue involved i.e. requirement of part of said land for purpose of public project and have agreed to certain terms. Parties have mutually agreed to reduce said agreed terms in writing and get caption Writ Petition disposed of as per consent terms.

3. Parties hereby Agree as under.

- a. Petitioners shall vacate their possession to the extent of 30 meters from under construction retention wall which is presently being constructed towards seawards side of the Hotel Sagar Sun and Sun Resort and hand it over to Respondent Union Territory of Dadra & Nagar Haveli And Daman & Diu. Petitioner shall further permit respondent to demolish the setback area beyond already agreed 30 meters. However, it is expressly agreed that Petitioner shall continue to have possession of setback area.
- b. It is agreed that Petitioner shall not claim any monetary compensation for vacating 30 meters of land nor for demolition, if any, of further area of land required for setback.

- c. Collector, Daman has demarcated newly constructed retaining wall and also 30-meter-wide road boundaries in the site plan and copy of the same has been provided to the Petitioner.
- d. It is agreed that Respondents henceforth will not dispute the title of the Petitioner in respect to Survey No. 8, 9/1, 9/2, 9/3, 10/1, 10/3, 11/1, 11/2, 11/3 and 11,5 situated at village - kathiria as per revenue records.
- e. It is agreed that there exist -
 - i. Hotel building namely 'Hotel sun resort' having total area of 3309.69sq.mtrs.
 - ii. Kitchen building having area 126.67sq. mtrs.
 - iii. Swimming pool having area of 599.4 sq mtrs and depth of 1.29mtrs.
 - iv. Swimming pool having area of 330 sq.mtrs and depth of 2.40 mtrs.
- f. Petitioner shall relocate the construction so mentioned at clause No. (e) at the expenses of Petitioner and for said purpose, Petitioner shall make formal application with competent authority for re-construction of building / structures so demolished as per clause (a) towards landward side from line demarcated in site plan as road boundary and authorities shall

complete the formalities along with required permissions if any within 2 months from date of submission of Application, subject to fulfillment of all requisite as prescribed by law.

g. Subject to as agreed in Clause (a), the Judgment and order dated 18.03.2019 (Exhibit "E" to Petition) stands withdrawn by Respondents and Petitioner withdraws Civil Writ Petition No. 3886 of 2019.

h. All above clauses will be treated as undertakings of all parties to Hon. Court."

4. Both the counsel submit that Consent Terms are signed by them. They submit to dispose of this matter. Hence, the following order is passed:

a. Writ Petition stands disposed of in terms of Consent Terms.

b. Consent Terms be treated as part and parcel of decree.

c. No order as to costs.

(N.R.BORKAR, J.)

(K.K.TATED, J.)