

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

WRIT PETITION NO. 10176 OF 2019

Mr. Rajiv Ramesh Mantri and anr. ...Petitioners

Versus

Rajendra Ramesh Mantri and Ors. ...Respondents

....

Mr. Ajit S. Hodage for the Petitioners.

Mr. Sanjiv Sawant i/b. Mr. Abhishek Matkar for Respondent Nos.3 and 5.

Ms Bhagyashri Ranade i/b. Mr. N.N. Patil for Respondent No.1.

CORAM : SMT. ANUJA PRABHUDESSAI, J.

DATED : 05th MAY, 2021.

P.C.:-

. Learned counsel for the Petitioner and Respondent Nos.1 and 2 and learned counsel for Respondent Nos.3 and 5 state that they have settled the dispute amicably. They have placed on record the consent terms, which read thus:-

“ CONSENT TERMS

1. *The Petitioner No. 1 and Respondent No.1 and Respondent No.2 herein have accepted and confirmed the Sale Deed dated 21st October, 2005 bearing Document No.2060 of 2005, Sale Deed dated 22nd January, 2007 bearing No.353 of 2007, Sale Deed dated 14th July, 2008 bearing No.3549 of 2008 and Sale Deed dated 25th April, 2012 bearing No. 1475 of 2012 and undertake that henceforth no claim of whatsoever nature will be made by either of the said parties as the said Sale Deeds are accepted by them, and the Respondent Nos. 3 and 5 will have lawful entitlement pursuant to the said sale deeds executed in their favor and the Respondent Nos. 3 and 5 are entitled to enjoy the said lands as they deem fit and*

proper.

2. *The Petitioner No. 1 and the Respondent Nos.3 and 5 have agreed to pay consideration to the Respondent No.1 towards his claim as made in the Special Civil Suit no. 108 of 2012 and after duly receiving the said consideration of total amount of Rs. 23,00,000/- (Rupees Twenty-three Lakhs only), the dispute between the Petitioner No. 1 and the Respondent Nos.1, 3 and 5 in relation to the lands which are the subject matter of Special Civil Suit no. 108 of 2012 filed before the Ld. Civil Judge, Senior Division, Alibag shall stand perpetually resolved, and accordingly, the said Special Civil Suit No.108 of 2012 shall stand disposed of as withdrawn. The Respondent No.1 undertakes to withdraw the Special Civil Suit No. 108 of 2012 as mentioned aforesaid within two weeks from date of filing the present Consent Terms as the entire claim is satisfied.*

3. *In view of the Consent Terms filed in this Hon'ble Court and upon payment of consideration as stated hereinabove by the Petitioner No. 1 and the Respondent Nos. 3 and 5 to the Respondent No. 1, the Special Civil Suit No.108 of 2012 shall stand disposed of as withdrawn. Accordingly, all other orders passed in the said Special Civil Suit No.108 of 2012 shall be deemed to have merged with these Consent Terms in view of the withdrawal of the said Special Civil Suit No.108 of 2012.*

4. *The parties have also agreed and undertaken that FIR No.48 of 2011 dated 11th May, 2011 filed by the Respondent No.1 at Alibag, Raigad be quashed and set aside, and accordingly the parties i.e. the Petitioner No. 1 and the Respondent No.1 and Respondent No.2 shall file appropriate Consent Terms in Criminal Application No.1345 of 2018 filed in this Hon'ble Court so as to quash the said FIR No. 48 of 2011.*

5. *It is agreed and undertaken by the Respondent No.1 herein that in Criminal Application No.1345 of 2018, he shall give his consent for*

quashing of FIR No.48 of 2011 which was filed by him on 11th May, 2011 with Alibag Police Station, Dist. Raigad as the settlement has taken place between the parties herein. The said Consent Terms for quashing of the said FIR No.48 of 2011 shall be filed in Criminal Application No.1345 of 2018 in this Hon'ble Court within 2 weeks from the date of filing the present Consent Terms and the Respondent No. 1 shall sign the said Consent Terms for quashing of FIR No.48 of 2011 filed with Alibag Police Station, Dist. Raigad.

6. *The parties hereto have agreed that the Petition for Probate bearing No.2872 of 2018 for probate of the last Will and Testament of Rajni Ramesh Mantri shall be withdrawn and the parties hereto shall inform to Shri Vijay Raghunath Pant Vaidya to withdraw the same in view of the settlement taken place between the parties herein.*

7. *The Petitioner No. 1 and the Respondent Nos.1 and 2 have also agreed and undertaken that they will seek quashing of the Criminal Complaint bearing No.297/SW/2013 filed by the Petitioner No. 1 herein before the Metropolitan Magistrate's 65th Court, Andheri, Mumbai in view of the settlement that has taken place and the present Consent Terms being filed in this Hon'ble Court. Accordingly, the Respondent No. 1 herein has filed Criminal Writ Petition before the Hon'ble Bombay High Court bearing Writ Petition (St.) No. 5935 of 2021 with the prayer for quashing of the Criminal Complaint bearing No.297/SW/2013 filed by the Petitioner No. 1 herein. The present Consent Terms are being filed / produced in the Civil Suit No. 108 of 2012 and shall also be tendered before the Hon'ble Court in the proceedings of Writ Petition (St.) No. 5935 of 2021 which has been filed for quashing of Criminal Complaint No. 297/SW/2013 filed in the 65th Court, Andheri, Mumbai.*

8. *It is agreed and undertaken by the parties herein that they shall take all appropriate steps to seek quashing of the M.E.C.R. No. 2 of*

2013 dated 4th April, 2013 filed before the Vile Parle Police Station and all consequential proceedings including the criminal case bearing C.C. No. 1068/PW/2017 pending before the Ld. Metropolitan Magistrate, 65th Court, Andheri, Mumbai. Accordingly, the Respondent No. 1 herein along with Smt. Supriya Rajendra Mantri have already filed a Criminal Writ Petition before the Hon'ble Bombay High Court bearing Writ Petition (St.) No. 5881 of 2021 for quashing of the M.E.C.R. No. 2 of 2013 filed by Shri Dinesh Mhatre, and Shri. Dinesh Mhatre has given his consent to seek quashing of the said M.E.C.R. No. 2 of 2013 which is registered pursuant to the private complaint filed by him before the Ld. Metropolitan Magistrate, 65th Court, Andheri, Mumbai. The said Criminal Writ Petition will be circulated before the Hon'ble Court with a prayer to quash and set aside the said M.E.C.R. No. 2 of 2013 by consent of the parties. All the parties hereby withdraw allegations made against each other and all respective proceedings initiated against each other shall stand withdrawn. Parties hereto will not have any claim of whatsoever nature against each other in view of the settlement and the resolution of the dispute by way of the present Consent Terms.

9. The Petitioner No. 1 and the Respondent Nos.1 and 2 or their heirs, legal representatives, assignees or persons claiming through them or on their behalf shall not have any claim of whatsoever nature with respect of the land bearing Survey No.39 Hissa No.2, Survey No.40 Hissa No.1B at village Bamansure, Taluka Alibag and more particularly pertaining to the subject matter of the sale deeds dated 21st October, 2005, 22nd January, 2007, 14th July, 2008 and 25th April, 2012 and in view of settlement of the dispute by paying consideration as stated hereinabove to the Respondent No. 1, the Respondent No.1 shall not claim any rights of whatsoever nature with respect of the said property which is the subject matter of the Special Civil Suit No.108 of 2012.

10. The present Consent Terms shall be produced by the

Respondent No.1 and by the parties herein before the Ld. Civil Judge, Senior Division, Alibaug and shall get the Special Civil Suit No.108 of 2012 disposed of as withdrawn.

11. *The Petitioner No. 1 and the Respondent Nos. 3 and 5 have agreed and undertaken to pay total consideration of Rs. 23,00,000/- (Rupees Twenty-three Lakhs only) to the Respondent No. 1 herein, out of which, an amount of Rs. 5,75,000/- (Rupees Five Lakhs Seventy-five Thousand only) has been paid to the Respondent No. 1 by way of Demand Draft bearing DD No. 210210 dated 12/04/2021 drawn on Kotak Mahindra Bank, Alibaug Branch in favour of Rajendra Ramesh Mantri, and the remaining amount shall be paid to the Respondent No. 1 within 2 weeks from the date of producing these Consent Terms in the Court and upon quashing of the FIR and withdrawing all the proceedings as mentioned in the present Consent Terms.*

12. *The parties hereby agree and undertake that in future if any co-operation is required in order to give effect to these Consent Terms, then the parties hereto will give full co-operation to each other and also attend before the concerned authorities, sign and execute necessary documents, and do all such acts as necessary for the said purpose.”*

2. The consent terms are duly signed by the parties and their respective counsel and are agreeable to them. The consent terms are taken on record and marked ‘X’ for identification. Statements made in the consent terms are accepted as undertaking to the Court. The Writ Petition stands disposed of in view of the Consent Terms.

(SMT. ANUJA PRABHUDESSAI, J.)