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

SUIT NO.184 OF 2021

Sandeep Wagh

...Plaintiff

Versus

Sitakant Mahabaleshwar Wagh & Ors.

...Defendants

Mr. Aditya Manjrekar i/b MLS Vani & Associates for the
Plaintiff.

Mr. Jayesh Joshi for Defendant No.1.

Ms. Sutapa Saha for Defendant Nos.2 and 3.

Mr. H.B. Takke, AGP for State.

CORAM : R.I. CHAGLA J.

DATE : 22nd NOVEMBER 2021

ORDER :

1. By this praecipe dated 15th November, 2021, the Advocate for the Plaintiff seeks directions to the Sub Registrar Office to act upon the consent terms dated 27th August, 2021 for cancellation of the gift deed dated 1st March, 2011 registered with the Sub Registrar of Assurances under Serial Number BDR 4 - 02157 / 2011.

2. By an order dated 27th August, 2021, the consent terms entered into between the parties was taken on record by

this Court and it was recorded that upon acceptance of the undertakings in the consent terms, the Suit was disposed of in accordance with the consent terms. Drawn up decree / order was dispensed with. Liberty was granted to the parties to present certified copy or authenticated copy of these consent terms and a certified authenticated copy of this order before the Sub Registrar of Assurances or Collector of Stamps, or both as the case may be.

3. The learned Advocate appearing for the Plaintiff submits that upon application made by the Plaintiff to the Sub Registrar of Assurance for cancellation of the gift deed dated 1st March, 2011, the Sub Registrar of Assurances by letter dated 20th September, 2021 had stated that they have no right to cancel the registered gift deed and for that purpose to move the appropriate Court. After cancellation of the registration of the said gift deed by the appropriate Court, then such entry will be taken in the office records.

4. Being aggrieved by the rejection on the part of the Sub Registrar of Assurances to cancel the gift deed dated 1st March, 2011 registered with Sub Registrar of Assurances, the present application is filed.

5. The learned Advocate for the Applicant has referred to previous order passed by this Court in another matter viz. ***Meera Housing Pvt. Ltd. Vs. Khatau Makanji & Company & Ors.***¹. This Court had directed the Sub Registrar of Assurances that the consent terms between the parties constituted an order and decree of the Court and that the Sub Registrar of Assurances will not question that decree. He will endorse the necessary cancellation. That is all that he is required to do. It would be treated as if a Suit had been filed seeking that the registered document be delivered up for cancellation and a decree was made in those very terms. There is no difference.

6. In view of the said order dated 1st April, 2019, the Sub Registrar of Assurances cancelled the document which had been registered and endorsed the cancellation. This has been recorded in the further order dated 24th April, 2019 passed in ***Meera Housing Pvt. Ltd.*** (Supra). He has submitted that a similar order be passed in the present case.

7. Having considered submissions of the learned Advocate for the Plaintiff and having perused the consent terms as well as the order dated 27th August, 2021 taking on

1 Suit No.2685 of 2009 order dated 1st April, 2019.

record the consent terms and disposing of the Suit in accordance with the consent terms as well as the orders dated 1st April, 2019 and 24th April, 2019 passed by this Court in ***Meera Housing Pvt. Ltd.*** (Supra), in my view, the Sub Registrar of Assurances could not have rejected the application for cancellation of the gift deed dated 1st March, 2011. The consent terms constituted an order and decree of this Court. The Sub Registrar of Assurances shall not question the decree and shall endorse the necessary cancellation referencing the consent terms order dated 27th August, 2021 passed by this Court.

8. The learned Advocate appearing for the Plaintiff shall communicate an authenticated copy of this order to the Sub Registrar of Assurances (Class II) Andheri II. That authority shall act on production of an authenticated copy of this order by cancelling the gift deed dated 1st March, 2011 registered with the Sub Registrar of Assurances being serial number VDR 4- 02157 / 2011.

9. The praecipe is accordingly disposed of.

[R.I. CHAGLA J.]