

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

**SUIT NO. 1483 OF 2018
WITH
NOTICE OF MOTION NO. 2512 OF 2018**

Bankeybihari Girirajprasad Agrawal And Ors. ... Plaintiffs

Versus

Jagdishprasad Girirajprasad Agrawal And Ors. ... Defendants

....

Mr. Bhavin H. Gada i/b. Harakchand & Co., for the Plaintiffs.

Mr. Karl Tamboly a/w Mr. Ashok Paranjpe, Mr. Vishal Jathar i/b. MDP & Partners, for the Defendant Nos.1 to 10.

Ms. Bhavini N. Chheda i/b. M/s. L.C. Tolat & Co. for the Defendant Nos.13 to 15.

**CORAM : N. J. JAMADAR, J.
DATE : 20th JANUARY, 2022
(THROUGH VIDEO CONFERENCING)**

PC.:

1. Heard the learned counsel for the parties.
2. The learned counsel for the plaintiffs has tendered two schedules of draft amendment. Under the first schedule of draft amendment, the plaintiffs propose to delete the defendant No.16, who has passed away on 28th April 2021 and the defendant Nos.17 to 20. The plaintiffs aver that the plaintiffs do not claim any relief against the defendant No.16, who has passed away on 28th April 2021 and the defendant Nos.17 to 20.

3. The learned counsel for the plaintiffs submits that, in view of the settlement arrived at between the parties, the plaintiffs propose to delete the names of defendant Nos.16 to 20 from the array of parties.

4. In any event, according to Mr. Gada, the learned counsel for the plaintiffs, the suit as against the defendant No.16 stood abated as his legal representatives have not been brought on record.

5. The defendant Nos.17 to 20, according to Mr. Gada, are not the members of the joint family of the plaintiffs and the defendant Nos.1 to 15, who have amicably resolved the dispute.

6. In view of the aforesaid submissions and with the consent of defendant Nos.1 to 15, who have no objection to the proposed amendment, the plaintiffs are allowed to amend the plaint in accordance with the first schedule of draft amendment.

7. The plaintiffs have also submitted a second schedule of draft amendment so as to bring the legal representatives of plaintiff No.2 – Heeradevi Bankeybihari Agrawal and defendant No.2 – Lalitadevi Jagdishprasad Agrawal.

8. The learned counsel for the plaintiffs submits that the some of the legal representatives are already on record as parties to the suit. Since the estate of deceased plaintiff No.2 and defendant No.2 has been represented, there is no abatement.

9. The learned counsel for the defendant Nos.1 to 15 have no objection to amend the plaint so as to bring the legal representatives of plaintiff No.2 and defendant No.2 on record, as proposed. It is further submitted that the proposed legal representatives of plaintiff No.2 and defendant No.2 have also executed the Consent Terms.

10. In view of the aforesaid submissions, the plaintiffs are permitted to amend the plaint in accordance with the second schedule of draft amendment.

11. Necessary amendment be carried out forthwith.

12. Re-verification is dispensed with.

13. The learned counsel tendered a Minutes of Order dated 20th January 2022. The Consent Terms dated 9th January 2022 are made part and parcel of the Minutes of Order. The original Consent Terms are also tendered.

14. The Minutes of Order are signed by the plaintiff No.1, plaintiff Nos.2A to 2D, plaintiff No.3 and plaintiff No.4, defendant No.1, defendant No.2A to 2D, defendant No.3 to 15. The Minutes of Order are also signed by the respective Advocates for the parties.

15. The Consent Terms are signed by the plaintiff No.1, plaintiff Nos.2A to 2D, plaintiff No.3 and plaintiff No.4, defendant No.1, defendant No.2A to 2D, defendant No.3 to 15. The Consent Terms are also signed by

the respective Advocates for the parties.

16. The parties are identified by the learned Advocates for the respective parties.

17. The plaintiff No.2C i.e. Ms.Kavita Deven Bansal is present before the Court through video-conferencing. She informs the Court that she is currently based at Australia. She had authorized the plaintiff No.1 – Mr. Bankeybihari G. Agrawal, her father, to execute the Consent Terms on her behalf. She admits the contents of the Consent Terms and Minutes of Order. She submits that she has no objection to dispose of the suit in accordance with the Consent Terms and Minutes of Order.

18. Rest of the plaintiffs and defendants are present before the Court through video-conferencing. They admit the contents of the Consent Terms and Minutes of Order and execution thereof.

19. Upon being inquired, the parties have specifically stated that they have settled the dispute voluntarily and there is no coercion or duress.

20. In view of the aforesaid submissions and statements made before the Court, the Minutes of Order are taken on record and marked “X” for identification and the Consent Terms are also taken on record and marked “Y” for identification.

21. The suit thus stands decreed in accordance with the Minutes

of Order and the Consent Terms.

22. Consent Terms (“Y”) shall form part and parcel of the decree.

23. The plaintiffs are entitled to refund of the Court fees in accordance with the rules.

24. By way of abundant caution, it is clarified that, the Minutes of Order and the Consent Terms shall not bind the rights of the legal representatives of defendant No.16, and defendant Nos.17 to 20 and anyone claiming through defendant Nos.16 to 20.

25. The Consent Terms shall also not bind the persons/entities, who are not parties thereto.

26. All the consequential action in pursuant to the Consent Terms, shall be taken by the concerned persons, authorities/societies in accordance with the governing provisions of law and rule and this Court shall not be construed to have approved a course of action which is not in conformity with law.

27. The suit stands disposed of.

28. All pending motions/applications, if any, also stand disposed of.

MANOJ R
TANDALE
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by MANOJ R
TANDALE
Date:
2022.01.21
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(N. J. JAMADAR, J.)