

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

**CRIMINAL APPLICATION NO. 382 OF 2023
WITH
CRIMINAL APPLICATION NO. 383 OF 2023**

Atithi N. Patel & Ors.

..Applicants.

Versus

The Indian Property Trust & Anr.

..Respondents

Mr. Bhomesh R. Bellam for Applicants in both APLs.

Mr. Himanshu Vidhani a/w. Roselin Alex i/b. Khaitan and Co. for
Respondent No.1 in both APLs.

Mr. Arfan Sait, APP for State/Respondent No.2.

CORAM : SARANG V. KOTWAL, J.

DATE : 29 AUGUST 2023

PC :

1. Heard the parties.
2. In both these applications, the same order dated 30.01.2023 passed by the learned Metropolitan Magistrate, 33rd Court, Ballard Pier, Mumbai, in C.C.No.556/Sum/2022 is challenged.
3. Both learned counsel for the contesting parties jointly submit that the matter be remanded back before the learned

Magistrate for fresh consideration of the issue in accordance with law. Since, both learned counsel are jointly making this statement and in particular, since the learned counsel for the Respondent No.1 is giving consent for setting aside the impugned order for fresh consideration; this course can be adopted.

4. Hence, the following order:

O R D E R

- i) The impugned order dated 30.01.2023 passed below Exhibit-9 in C.C.No.556/Sum/2022 passed by the Metropolitan Magistrate, 33rd Court, Ballard Pier, Mumbai, is set aside.
- ii) The Application Exhibit-9 in C.C.No.556/Sum/2022 is revived to its file for fresh consideration in accordance with law. It shall be decided expeditiously.
- iii) All the questions raised by both the parties are left open.
- iv) Both the Applications are disposed of.

(SARANG V. KOTWAL, J.)