

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

**FIRST APPEAL NO. 139 OF 2023
WITH
INTERIM APPLICATION NO. 65 OF 2022
IN
FIRST APPEAL NO. 139 OF 2023**

Palak Impex Pvt. Ltd.

Through its Directors,

1) Mrs. Parul Bharat Shah and Others ... Appellants

versus

Orange Land Pvt. Ltd., Through Director

Mr.Dilip Krushna Mogham and Others ... Respondents

**WITH
INTERIM APPLICATION NO. 17080 OF 2023
IN
FIRST APPEAL NO. 139 OF 2023**

Mrs. Leena Tulsi Bhimjyani and Others ... Applicants

In the matter of

Palak Impex Private Limited

Through its Directors,

1) Mrs. Parul Bharat Shah and Others ... Appellants

versus

Orange Land Pvt. Ltd. and Another ... Respondents

.....

Mr.Raj S. M. Satam h/f. Mr.Prajakt Arjunwadkar for the Appellant.
Ms.Dhawani Bokaria i/b. M/s. Purnanand & Co. for the
Respondents in First Appeal and for the Applicants in IA No. 17080
of 2023.

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**CORAM : NITIN JAMDAR &
MANJUSHA DESHPANDE, JJ.**

DATE : 7 NOVEMBER 2023

P.C.:

The Appellants/ Original Defendants have filed this First Appeal challenging the judgment and decree dated 1 January 2020 passed by the learned 2nd Joint Civil Judge, Senior Division, Alibaug in Special Civil Suit No. 255 of 2010.

2. By the impugned judgment and decree, the learned Civil Judge had granted specific performance of the agreement dated 4 September 2007.

3. On 28 June 2022, the First Appeal was adjourned to 12 July 2022 on the ground that parties are negotiating settlement. Thereafter, it was adjourned from time to time. Ultimately, both the parties informed the Court on 3 November 2023 that the consent terms are ready and are in process of being filed.

4. The learned Counsel for the Appellants had informed the Court that for overall settlement, both the parties intended to join nominees of the Respondents and by consent it was agreed that the Appellants would file an application for joining these nominees as party to the First Appeal even though they were not parties in Special Civil Suit No. 255 of 2010.

5. Registry was directed to examine whether the consent terms are in order for clerical compliances. Registry has submitted a report that identity of the parties and the consent terms are verified and that they are in order.

6. We have perused the consent terms. In the consent terms, parties have agreed that specific performance of the suit property would be retained, however, consideration would be enhanced, and the same has been provided in the consent terms.

7. That being the settlement, as we are informed, we do not find anything unconceivable regarding the settlement. Accordingly, the consent terms are taken on record and marked 'X' for identification.

8. Interim Application No. 17080 of 2023 taken out for impleading nominees of the Respondents in the array of Respondents is allowed.

9. The First Appeal and Interim Application No. 65 of 2022 will have to amend accordingly. Amendment to be carried out during the course of the day. Reverification is dispensed with.

10. The First Appeal is accordingly disposed of in terms of the consent terms. Decree stands modified and it be drawn accordingly in terms of the consent terms.

11. We make it clear that these consent terms will not give any liberty to override the provisions of law nor it would be binding on the parties who are not parties to the consent terms.

12. In view of disposal of the First Appeal, nothing remains in Interim Application No. 65 of 2022 and the same is accordingly disposed of.

(MANJUSHA DESHPANDE, J.)

(NITIN JAMDAR, J.)