

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO 11876 OF 2023

Mr. Kirit Kantilal Jethva

...Petitioner

Versus

State of Maharashtra & Ors.

...Respondents

- CONSENT TERMS

The Petitioner and Respondent Nos. 4 and 5 along with the elder brother of the Petitioner, Mr. Rajendra Kantilal Jethava, and his wife, Mrs. Dharmishta Rajendra Jethava, and the mother of the Petitioner, Mrs. Taraben Kantilal Jethava, have amicably arrived at the following arrangement. The arrangement as agreed is as follow;

1. The Petitioner and his brother Mr. Rajendra Kantilal Jethava are lawful owners having 50% share each in respect of Gala No 121 situated at 1st floor building no. 5, Real Industrial Estate, Valiv, Vasai (East) Dist- Thane now Palghar, Maharashtra.
2. The Petitioner and his mother Mrs. Taraben Kantilal Jethava are lawful joint owners in respect of Gala No 215, situated at 2nd Floor of Bhola Bhagwan Industrial Estate, I. B. Patel Road, Goregaon East, Mumbai 400063.
3. The Petitioner has filed a suit bearing No. 201893 of 2019 before Hon'ble City Civil Court, Dindoshi to restrain Respondent No 4 (Father) from selling, disposing of Flat No G/701, 7th Floor, Ekta

Bhoomi Garden, Phase 1, Dattapada Road, Near Sai Services, Borivali East Mumbai-400066, which is pending.

4. Mrs. Taraben Kantilal Jethava has filed D.V Complaint bearing No. 297/DV of 2018 before Metropolitan Magistrate Court at Borivali against Mrs. Shilpa Kirit Jethva i.e Respondent No 5 and Kirit Kantilal Jethava i.e Petitioner which is pending.
5. The Petitioner has filed the present Petition against the order dated 5-7-2023 passed under The Maintenance and welfare of Parents And Senior Citizen Tribunal Act, for vacating the Flat No. G-701, 7th Floor, Ekta Bhoomi Garden, Phase 1, Dattapada Road, Near Sai Services, Borivali East Mumbai-400066 by the Petitioner and his wife i.e. Respondent No.5. During the pendency of the above petition, the Petitioner vacated the said flat along with his family (wife and son) on 17.09.2023 and with their belongings.
6. It is agreed by the parties that the Petitioner took away 3 Kgs of Silver and a Gold bracelet and a gold ring belonging to Respondent No. 4, which has been given to the Petitioner and his wife by Respondent No.4 out of natural love and affection. Subsequently, after successful mediation, on 6.10.2023, all the remaining belongings of the Petitioner and his family have been handed over to him, the receipt of which has been acknowledged by the Petitioner in the *Panchanama* drawn on 06.10.2023.
7. The Petitioner and his wife Mrs. Shilpa Kirit Jethava have agreed to relinquish their right, share and interest in Flat No G/701, 7th Floor, Ekta Bhoomi Garden, Phase 1, Dattapada Road, Near Sai Services,

Borivali (East) Mumbai-400066. Accordingly, Petitioner undertakes to withdraw the Suit No 201893 of 2019 filed and pending before Hon'ble City Civil Court, Dindoshi on signing and execution of the present consent terms.

8. Mr. Rajendra Kantilal Jethava undertakes to transfer his 50% share in Gala No Gala No 121 situated at 1st floor building No. 5, Real Industrial Estate, Valiv, Vasai(East) Dist- Thane now Palghar, Maharashtra, in favor of the Petitioner by executing a Gift Deed in favor of Petitioner. Accordingly, Mr Rajendra Kantilal Jethava undertakes to execute Gift Deed in favor of the Petitioner within three months from signing of the present consent terms. The cost to be incurred for filing and registration of Gift Deed will be shared equally by Mr. Rajendra Kantilal Jethava and the Petitioner.
9. It is agreed between the parties to sell Gala No 215, situated at 2nd Floor of Bhola Bhagwan Industrial Estate, I. B. Patel Road, Goregaon (East), Mumbai 400063 (Hereinafter referred to as Goregaon Gala) belonging to Mrs. Taraben Kantilal Jethava and the Petitioner jointly. On sale of the said Gala, parties to the present consent term undertake to transfer sum amount of Rs 43,00,000/- (Rupees Forty-Three Lakhs Only) being part of the total sale consideration in favor of Petitioner.
10. Petitioner undertakes to provide necessary co-operation required for sale of said Goregaon Gala. Further Petitioner on signing of present consent terms undertakes to withdraw complaint letters objecting to sale of said gala been filed by him before Bhola Bhagwan Industrial Estate Society to enable the sale of said Goregaon Gala.

11. During the pendency of sale of said Gala, Respondent No. 4 undertakes to provide temporary accommodation for residence to Petitioner and his wife and grandson. In fulfilment of the said undertaking, and on immediate signing of the present consent terms, Respondent No. 4 undertakes to pay to the Petitioner a sum of Rs 15,000/- (Rupees Fifteen Thousand) towards the rent amount towards one month's rent along with security deposit amount of Rs 2, 00,000/- (Rupees Two Lakhs Only) to enable the Petitioner and his family to find an alternate place of residence.
12. Respondent No.4 undertakes to pay sum amount of Rs 15,000/- (Rupees Fifteen Thousand) to the Petitioner being temporary accommodation by 10th day of every month until the sale of said Goregaon gala and transfer of part consideration amount of Rs 43,00,000/- (Rupees Forty Three Lakhs Only) in favor of the Petitioner .
13. Petitioner and his wife Mrs. Shilpa Kirit Jethava undertake not to claim from Respondent No.4 the said monthly amount of Rs 15,000/- (Rupees Fifteen Thousand) on sale of said Goregaon gala and on receipt of sum amount of Rs 43,00,000/- (Rupees Forty-Three Lakhs Only).
14. It is agreed by the parties, that on execution of the present consent terms, Mrs. Taraben Kantilal Jethava undertakes to withdraw D.V Complaint No 297/DV of 2018 filed before Metropolitan Magistrate Court at Borivali against Mrs. Shilpa Kirit Jethva i.e. Respondent No 5 and the Petitioner.

15. It is unambiguously and without demur agreed by the parties that, since the issues have been settled amicably between the family members of Jethva's, the other legal heirs of Respondent No. 4, more particularly, Rajendra Kantilal Jethava, being the elder brother of Petitioner, his wife, Mrs. Dharmista Rajendra Jethava, and Mrs. Taraben Kantilal Jethava, the mother of Petitioner, who are though not impleaded as party to the instant *lis*, have agreed to sign the present consent terms in order to scuttle down initiation of further litigation in future.

16 Petitioner and his family undertake that this is a full and final settlement with respect to all the movable and immovable properties including all the existing as well as the properties that may be acquired in future by Respondent No. 4 and Mrs. Taraben and that they shall not be entitled to any other movable and immovable properties belonging to the Respondent No. 4 and Mrs. Taraben Kantilal Jethva, of what so ever nature in future.

17 The undertaking given by the respective parties in English is been explained to them in Gujarati/Hindi by their respective advocates.

18 The undertakings given by the respective parties are duly accepted by this Hon'ble Court.

19 The writ petition is disposed of in terms of these minutes of order.

Dated this on 25th day of October 2023

Tanuj
25/10/2023
Advocate for the Petitioner

Jethava Kirit K.
Petitioner

Arunbode
25.10.2023
Advocate for the Respondent No.4
AKHIL ASHOK KURADE
Identified by me,

K. G. Jethava
Respondent No.4

Shilpa Kirit Jethava
(Shilpa Kirit Jethva)
(Respondent No. 5)

Advocate, High Court.

SB
Rajendra Kantilal Jethava
(Elder brother of Petitioner)
Respondent No. 6

शर्मिष्ठा राजेंद्र जेठवा
Mrs. Dharmishta Rajendra Jethava,
(Wife of elder brother of Petitioner)
Respondent No. 8

चिरी जेठवा

Mrs. Taraben Kantilal Jethava
(Mother of the Petitioner)
Respondent No. 7

Identified by me,

Arunbode
Advocate for the Respondent No. 4
Identified, interpreted &
explained to the parties.

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.... Respondents

MINUTES OF ORDER

Dated this 25th Day of October, 2023