

K.S. Jadhav

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

COMMERCIAL SUIT NO.427 OF 2016

AND

INTERIM APPLICATION NO.175 OF 2022

IN

COMMERCIAL SUIT NO.427 OF 2016

Harshad C. Valia & Anr.,

...Plaintiffs

Versus

M/s Sumathi Developers Pvt. Ltd. & Ors.,

...Defendants

Mr. Parth Jasani, Advocate for Plaintiffs.

Mr. Chirag Chanani i/b Dewani Associates, Advocate for Defendant
Nos. 1, 4 & 5.

CORAM : R.I. CHAGLA J.

DATE : 8TH FEBRUARY, 2023.

ORDER :

1. The learned Counsel appearing for the Plaintiffs has sought leave to withdraw Interim Application No.175 of 2022.
2. Accordingly, Interim Application No.175 of 2022 is disposed of as withdrawn.
3. The learned Counsel appearing for the Plaintiffs has tendered

Draft Amendment which is taken on record and marked 'X' for identification. He has sought permission in the Draft Amendment, for deletion of Plaintiff No.1 who has expired and to bring the legal heirs of deceased Plaintiff No.1 as the Plaintiff Nos. 3 and 4 *qua* the property viz. Land bearing Survey No.44, Hissa No.2 and CTS No.H/217 and H/218 situated at Village Danda (Bandra-H) Village, Taluka Andheri.

4. Having considered the Draft Amendment circulated in light of the matter being settled between the Original Plaintiff No.2 as well as proposed Plaintiff Nos.3 and 4 and Defendant Nos. 1, 4 and 5, it would be appropriate to allow the amendment to be carried out in the Plaint filed in the above Commercial Suit.

5. Accordingly, the Original Plaintiff No.2 shall carry out the amendment in the Plaint filed in Commercial Suit No.427 of 2016 in accordance with Draft Amendment marked 'X' forthwith.

6. Re-verification is dispensed with.

7. The Consent Terms between the Plaintiff Nos.2 to 4 and Defendant Nos.4 and 5 bearing today's date is tendered and taken on record and marked 'X-1'. Parties to the Consent Terms are present in

the Court. The Consent Terms have been signed by the Plaintiff Nos. 2 to 4 and the Advocate for the Plaintiffs together with Defendant Nos. 1, 4 and 5 and the Advocate for Defendants.

8. The learned Counsel for the Plaintiffs has sought leave to withdraw the Suit against Defendant Nos. 2 and 3.

9. Accordingly, the Suit is disposed of as withdrawn against Defendant Nos. 2 and 3.

10. I am satisfied that the Consent Terms are in order, not contrary to law and have been drawn by the parties of their own volition in reflection of their true intentions.

11. The undertakings, if any, in the Consent Terms being accepted as undertakings to the Court.

12. The Commercial Suit No.427 of 2016 is disposed of and decreed in terms of Consent Terms.

13. The Interim Application filed in the above Commercial Suit, does not survive, hence, disposed of.

14. Drawn up decree/order is dispensed with unless the parties seek drawn up decree/order, in which case they are entitled to apply.

15. A soft copy of the Consent Terms will be uploaded as the second order in the matter.

16. The Registry is to ensure that the hard copy of the signed Consent Terms is permanently retained on file as part of the record and is not sent for destruction in the ordinary course.

17. Court fees are to be refunded in accordance with the Rules.

18. The Office shall return the original documents which are filed in the above Commercial Suit within a period of one week from the date of this order.

[R.I. CHAGLA J.]