

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

SUIT NO. 540 OF 2017

Himanshu Vaidya & Ors.

... Plaintiffs

V/s.

Bharati Kuldeep Sapat

(since deceased) & Ors.

... Defendants

CONSENT TERMS

1. These Consent Terms have been agreed to, confirmed by and consented to by the Plaintiffs and the Defendants to avoid prolonged litigation between them and are in Full and Final settlement of all the claims, disputes and differences raised by the Plaintiffs as regards the Last Will and Testament dated 7th June, 2011 of the late Ms. Indira Murarji Vaidya (hereinafter for the sake of brevity referred to as the Said Last Will and Testament and the Said Deceased respectively) pertaining to the distribution of her Estate.

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2. The name of the Original Defendant No. 1 Mrs. Bharati Kuldeep Sapat, who expired on 19th September, 2017 during the pendency of the above Suit, be deleted and the abatement of the Suit against her heirs be set aside and accordingly the names of Mr. Kuldeep Amarsingh Sapat (husband), Ms. Bhavna Sapat (2nd daughter) and Ms. Alka Sapat (youngest daughter), who are three of her four heirs and Legal Representatives be brought on record as the Defendant Nos. 1(a) to 1(c) respectively. The Defendant No. 2 Mrs. Shilpa Vinay Ashar, who is the eldest daughter of Late Mrs. Bharti Kuldeep Sapat besides being one of the beneficiaries of the Said Deceased will continue as the Defendant No. 2 herein.

3. It is further agreed consented and confirmed by and between the parties herein that Mrs. Shilpa Vinay Ashar, the Defendant No. 2 herein will be substituted as the Petitioner in place of the present Petitioner Dr. Amrish Shantikumar Vaidya in Testamentary Petition No. 2323 of 2017, which is pending in this Hon'ble Court, in view of an Affidavit dated 15.02.2022, whereby he i.e. Dr. Amrish Shantikumar Vaidya has given up and relinquished his right to continue to act as the Executor and

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Petitioner therein and as the other 3 persons named in the said Last Will and Testament by the Testatrix to act as Executor/Executrix thereof, viz., (i) Mr. Ajit Jadavji Vaidya, (ii) Ms. Dhruvi Amrishi Vaidya and (iii) Ms. Shaila Deepak Malik, have also vide their respective Affidavits dated 5.09.2019, 15.02.2022 and 15.02.2022 given up and relinquished their rights to act as such.

4. The Plaintiffs agree and undertake to fully co-operate with the Defendant No. 2 herein, viz; Mrs. Shilpa Vinay Ashar, the Proposed Petitioner in Testamentary Petition No. 2323 of 2017, to obtain the Probate of the Last Will and Testament of the Deceased Ms. Indira Murarji Vaidya and to execute her wishes as set out therein subject however to the Terms and Conditions mentioned hereinbelow and in the Consent Terms filed in the said Testamentary Petition No. 2323 of 2017. The Plaintiffs further agree and undertake that they shall not lay claim of any nature whatsoever to the estate of the Deceased Ms. Indira Murarji Vaidya, other than the amounts to be paid to them as mentioned in Clause 7 hereinbelow.

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5. All the parties herein agree, consent and confirm that due to the pandemic and the ensuing economic slowdown, the Flat No. 2, 1st Floor, Building No. 1, Prabhadevi Gurudev C.H.S.L., Hatiskar Marg, Prabhadevi, Mumbai 400 025, which is a part of the Estate of the said Deceased (hereinafter for the sake of brevity referred to as "the Said Flat") will fetch a substantially lower price than the initially expected price of ₹ 5,00,000,00/- (Rupees Five Crores Only) and hence the Plaintiffs agree and undertake that they will not challenge or call into question the price at which Mrs. Shilpa Vinay Ashar sells the said Flat to any person or party.

6. The said Flat shall be sold by Mrs. Shilpa Vinay Ashar irrespective of the price it fetches within one year from the date of obtaining the Probate of the Last Will and Testament dated 7th June, 2011 of the Deceased Mrs. Indira Murarji Vaidya in Testamentary Petition No. 2323 of 2017 pending in this Hon'ble Court. It is expressly agreed and understood by the Plaintiffs that they shall not have any say in respect of any matter regarding the sale or transfer of the Said Flat to any person/party now or at any time in future.

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7. The Defendant No. 2 undertakes to pay a total sum of ₹ 85,00,000/- (Rupees Eighty Five Lakhs Only) from the sale proceeds of the Said Flat to the Plaintiffs in full and final settlement of all their claims in respect of the Estate of the Deceased Ms. Indira Murarji Vaidya, which amount shall irrespective of any event be paid to the Plaintiffs within one year from the date of obtaining the Probate of the Last Will and Testament dated 7th July, 2011 of the said Deceased in Testamentary Petition No. 2323 of 2017 pending in this Hon'ble Court. The said total amount of Rs. 85,00,000/- (Rupees Eighty Five Lakhs only) shall be distributed equally among the 3 Plaintiffs as desired by them, i.e. (i) a sum of ₹ 28,33,333/- (Rupees Twenty Eight Lakhs Thirty Three Thousand Three Hundred and Thirty Three Only) to Mr. Himanshu Vaidya, (ii) a sum of ₹ 28,33,334/- (Rupees Twenty Eight Lakhs Thirty Three Thousand Three Hundred and Thirty Four Only) to Ms. Manjari Vaidya and (iii) a sum of ₹ 28,33,333/- (Rupees Twenty Eight Lakhs Thirty Three Thousand Three Hundred and Thirty Three Only) to Ms. Nimisha Vaidya. The aforesaid amounts shall be distributed amongst the 3 Plaintiffs by issuing and handing over

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to each of them individual cheques of the aforesaid amounts in their respective names within 15 days of the receipt of the proceeds from the sale of the Said Flat.

8. It is made clear here that the abovementioned total amount of ₹ 85,00,000/- (Rupees Eighty Five Lakhs Only) shall be paid to the Plaintiffs only from the sale proceeds of the Said Flat which forms a part of the Estate of the Deceased Ms. Indira Murarji Vaidya, which total amount shall be first disbursed to them i.e. to the Plaintiffs before disbursement of any of the other amounts bequeathed to any of the other beneficiaries named in the said Last Will and Testament of the said Deceased.

9. The Plaintiffs agree to unconditionally withdraw all their Notices, Letters and Complaints written, either jointly or singly by them or through their Advocates to the Prabhadevi Gurudev Co-operative Housing Society Ltd. or any other body, party or person in respect of the Said Flat, as well as about any of the Defendants or any of their representatives.

10. In view of the present Consent Terms, the Plaintiffs and the Defendants hereby withdraw all their statements, allegations

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and submissions made by them in their respective pleadings, unconditionally and absolutely and/or the same to stand dismissed/withdrawn.

11. Refund of Court Fees as per Rules.

12. Each of the Parties will bear their own costs of the above Suit and the proceedings taken out herein by each of them.

13. The above Suit and the Notice of Motion No. (L) 1752 of 2017 taken out by the Plaintiffs to stand disposed of in accordance with these Consent Terms.

Mumbai dated

this 1st day of November, 2023

Identified by me

07.11.2023
Advocate for the Plaintiffs

1. H.Y. Vaidya

Himanshu Vaidya

2. *M. Y. Vaidya*

Manjari Vaidya

3. *N. Y. Vaidya*

Nimisha Vaidya

Plaintiffs

Identified by me

[Signature]

Advocate for the Defendants

1.

[Signature]
(Kuldeep Amarsingh Sapat)

Defendant No. 1(a)

2.

[Signature]
(Mrs. Shilpa Vinay Ashar for self
and as the Constituted Attorney
of the Defendant Nos. 1(b) and 1
(c)

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CONSENT TERMS

Mumbai dated this 1st day of November, 2023

Mr. Atul S. Tungare
& Mr. Amit A. Tungare
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Advocate's Code :17036