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MAYEKAR

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IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 2397 OF 2020

ALONGWITH

INTERIM APPLICATION NO.1130 OF 2024

IN

WRIT PETITION NO. 2397 OF 2020

Astor H. Gandhi

..... Petitioner

VERSUS

**Funds & Properties of the
Parsi Panchayet Bombay & Ors.**

..... Respondents

Ms.Kinjal Kakkad a/w. Mr.Malcom Singanpuria i/b. Mr.Jayesh R.
Vyas for the Petitioner.

Mr.Agnel Carneiro i/b. Mulla & Mulla & Craigie Blunt & Caroe
for the Respondent No.1.

Mr.Hamid Mulla, A.G.P for the State – Respondent Nos. 9 and 10.

Mr.Astor H. Gandhi, Petitioner present Thr. Video Conference.

CORAM: RAJESH S. PATIL, J.

DATE : 29 APRIL, 2024

P.C. :-

Both the parties have tendered the consent terms dated 22
April, 2024.

2. Ms.Kakkad, learned counsel appearing for the petitioner

submits that the petitioner has logged in to this matter by video conference. She identifies the petitioner who has logged in via video conference. She submits that the petitioner has signed the consent terms and she identifies the signature on the consent terms.

3. Mr. Carneiro, learned counsel appearing for the respondent trust and trustees submits that the consent terms has been signed on behalf of the trust by power of attorney holder being Senior Executive (Legal) of the trust. He submits that the said Senior Executive (Legal) of the respondent no. 1 trust is present in Court and he identifies the signature of her on the consent terms.

4. The consent terms are taken on record and marked 'X' for identification.

5. For ease of reference, a scanned copy of the consent terms is produced hereinbelow :-

Tender in court
OMBAY 8/2/18

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- No. 1 to 8 having office at 209,)
 Dr. Dadabhai Navroji Road, Fort)
 Mumbai 400 001.)
 9. The Competent Authority, Konkani)
 Division, 5th Floor, Griha Nirman)
 Bhavan, Kala Nagar, Bandra (East))
 Mumbai – 400 051.)
 10. The Additional Commissioner,)
 Konkani Division, Mumbai, 2nd Floor)
 Old Secretariat Annex Building,)
 Mumbai – 400 032.)... Respondents

CONSENT TERMS

1. The Petitioner and Respondent No. 1 have arrived at Consent Terms and apply to this Hon'ble Court for a Decree in terms hereof as recorded herein.

2. By Consent, Judgment and Order dated 5th October 2015 passed by the Competent Authority, Konkani Division Mumbai (herein after referred to as "the said Decree") in Application No. 27 of 2014 stands confirmed, in terms as recorded in the present Consent Terms.

3. The Petitioner however has requested the Respondent No.1 Trust not to execute the said Decree dated 5th October 2015 and sought permission for his aging and old parents viz. Mr. Homi

Digal Kukkar

Abhaya

[Signature]

Pheroazshah Gandhi (aged 90 years) and Mrs. Hira Homi Gandhi (aged 82 years) to occupy the suit premises only during their life time purely on sympathetic grounds and agreed payment of compensation amount of Rs.4078/- (Rupees Four Thousand Seventy Eight Only) as awarded by the Competent Authority in its Judgment and Order dated 5th October 2015.

4. In view of the above request made by the Petitioner, the Respondent No.1 on humanitarian ground agrees not to execute the said Decree dated 5th October 2015 forthwith and further agrees to grant permission for the aging and old parents of the Petitioner, Mr. Homi Pheroazshah Gandhi (aged 90 years) and Mrs. Hira Homi Gandhi (aged 82 years) to occupy the suit premises only during their life time and purely on the terms of these consent terms. The Petitioner and members of his family which include the Petitioner, Mrs. Arnavaz Gandhi (Wife of the Petitioner) and Mr. Jehan Gandhi and Mr. Farhan Gandhi (sons of the Petitioner), will also be permitted to stay in the suit premises, but only during the life time of aforesaid parents of the Petitioner.

5. The Petitioner agrees and undertakes, that within 3 (Three) months of the death of his aforesaid last surviving parent he and/or his legal heirs and representatives or administrator as the case may be, shall unconditionally surrender the suit premises to the Respondent No.1 without any demur or delay.

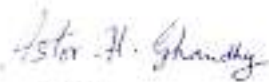


6. The Petitioner agrees and undertakes to pay only a sum of Rs.4078/- (Rupees Four Thousand Seventy Eight Only) as monthly compensation as awarded by the Competent Authority in its Order dated 5th October 2015 in advance on or before 15th of each month till the date of surrender of the suit premises to the Respondent No.1, from the date of signing of these Consent Terms.
7. The Petitioner agrees and undertakes that he shall not induct any third party in the Suit premises on any grounds whatsoever.
8. The Petitioner agrees and undertakes that neither he nor his legal heirs and representatives shall claim any right title interest of any nature whatsoever including tenancy rights in respect of the suit premises in any manner whatsoever and for any reason or any circumstances whatsoever and that the suit premises shall be surrendered within 3 months of death of the last surviving parent. Affidavits duly executed by Mr. Jehan Ghandhy and Mr. Farhan Ghandhy (sons of the Petitioner) to the above effect are annexed hereto as **Annexures -1 and 2** respectively.
9. The Petitioner agrees that in the event of breach of any of the above terms of these Consent Terms, the Respondent No.1 shall be entitled to execute the Decree dated 5th October 2015 forthwith without any notice to the Petitioner.
10. The Parties pray that this Hon'ble Court may be pleased to accept and to take on record this Consent Terms and the

Statements, Declaration and Undertaking incorporated herein and
to pass an Order/Decree in terms of this Consent Terms.

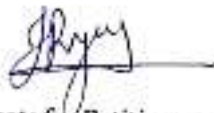
11. No order as to Cost.

Dated this 22nd Day of April 2024.



Petitioner


Senior Executive (Legal) SCA
For and on behalf of the of Respondent
Respondent No.1 No.1



Advocate for Petitioner



Advocate for Respondent No.1

6. Order in terms of the consent terms.
7. Writ petition is accordingly disposed of in terms of the consent terms. The undertakings recorded in the consent terms are accepted as an undertaking given to this Court. All the undertakings are also accepted.
8. Writ petition is disposed of.
9. In sequel, interim applications, if any, pending, are also disposed of.

[RAJESH S. PATIL, J.]