

Amberkar

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

CIVIL REVISION APPLICATION NO. 238 OF 2008

Nitin Keshav Bhosale

.. Applicant

Versus

Manmohan Anand

.. Respondent

WITH
ARA 10 OF 2015

.....

- Mr. Surel Shah i/by Mr. Satyajeet P. Dighe for Petitioner in CRA/238/2008 & for Respondent No. 2 in ARA/10/2015
- Mr. Avinash Vasantrao Joshi for Respondent Nos. 1 to 3 in CRA/238/2008
- Mr. Abhishek Pungliya for Petitioners in ARA/10/2015 & for Respondent No. 1 in CRA/238/2008

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CORAM : MILIND N. JADHAV, J.

DATE : APRIL 17, 2024
in Chamber at 4:30 p.m.

P. C.:

1. Heard learned Advocates appearing for the parties.
2. Parties have reconciled their disputes and differences and filed Consent Terms. Consent Terms dated 17.04.2024 are taken record and marked “X” for identification. Consent Terms are executed by the parties as well as Advocates whose signatures are appended at Page No. 15 of the Consent Terms.
3. Consent Terms totally run into 58 pages including annexures. Text of the Consent Terms upto the execution clause run into 15 pages

and the same are scanned and reproduced herein under for immediate reference:-

"X" *Manoj Bhosale* 17/4/2024

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
CIVIL REVISION APPLICATION No. 238 of 2008.

Nitin Keshavrao Bhosale ..Applicant.
Vs
Manmohan Anand&Ors ..Respondents.

CONSENT TERMS

I. The Respondent Nos. 1 and 2 are owners of the commercial premises i.e., Office/ Shop No.217admeasuring 3588 sq. ft./ 333.33 sq. mts. as well as adjoining top terrace admeasuring 2760 sq. ft. in the building Vitoria-I, Fortaleza Complex, Vitoria Premises Co-operative Society Ltd., 1st Floor, Kalyani Nagar, Pune-411006, (**hereinafter referred to as suit premises**) which building/ complex has been constructed on land bearing survey no. 210(part) of Village Yerwada, Pune.

II. The abovenamed Applicant and the abovenamed Respondent Nos. 1 to 3 have amicably settled their disputes arising from the unregistered Agreement dated 15.02.2006 executed on Rs.100/- stamp paper on the following terms:

Manmohan Anand
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A) The Respondents agree and undertake to pay an aggregate sum of Rs.1,75,00,000.00 [One Crore, Seventy-Five Lakhs only] to the Applicant in following manner:-

i) A sum of Rs.42,35,694.00 is already deposited by the Respondents in this Hon'ble Court in Arbitration Appeal No. 10 of 2015 and the same is withdrawn by the Applicant, on submitting an undertaking along with original Solvency Certificate to this Hon'ble Court that the Applicant will bring back the amount in the event the Appellants (Respondents herein) succeed in the said Appeal. The Applicant shall be entitled to the said amount of Rs.42,35,694.00 absolutely leaving a balance of Rs.1,32,64,306.00.

ii) Balance amount of Rs.1,32,64,306.00 shall be paid by the Respondents by depositing the same with the Office of this Hon'ble Court in two instalments as follows:-

- a) Rs.33,16,077.00 on or before 25th April 2024
- b) Rs. 99,48,231.00 on or before 25th July 2024

B) On the Respondents depositing the amounts as mentioned in Clause A(ii) hereinabove and subject to the Applicant honouring his undertakings given to this Hon'ble Court in Clauses B(i) and B(ii) hereinbelow, the Applicant shall be permitted to withdraw the

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amounts, as mentioned in Clause A(ii), hereinabove from the Office of this Hon'ble Court. The Applicant undertakes to this Hon'ble Court that he will not make any application to withdraw the said amounts deposited as per clause A(ii) hereinabove with the Office of this Hon'ble Court unless the Applicant has done the following:

- i) **THE APPLICANT HAS**, on or before ^{FILING NO} 15.06.2024, withdrawn Criminal Appeal No. 2251/2016 filed in the Sessions Court, Pune, challenging the judgment and order of acquittal dated 19.11.2013 passed by the JMFC Pune (Link Court No. 8) in SCC No. 0003502/ 2007 intimating the Respondents/ Respondents' Advocate of the said withdrawal; and
- ii) Upon Respondent No.1 filing in this Hon'ble Court, in terms of Clause H(ii) hereinbelow, an application/ writ petition under section 482 of the Criminal Procedure Code 1973 r/w Article 227 of the Constitution of India with prayers seeking to quash the F.I.R. No. 756/2018 registered in Yerawada Police Station, Pune; and with prayers seeking to quash the chargesheet filed in RCC No. 1693/ 2019 before the 13th JMFC Court Pune, **THE APPLICANT HAS** filed in the said application/ writ petition so filed, a Reply Affidavit withdrawing all allegations against Respondent No.1 in respect of theft and criminal trespass; and consenting to/ giving his No Objection to quashing
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of the said F.I.R. No. 756/2018 registered in Yerawada Police Station; and consenting to/ giving his No Objection to quashing of the said chargesheet filed in RCC No. 1693/ 2019 before the 13th JMFC Court Pune intimating the Respondents/ Respondents' Advocate of the filing of the said Reply Affidavit and serving a copy of the same on the Respondents' Advocate.

C) The Applicant agrees and undertakes to this Hon'ble Court that in the event the amount deposited by the Respondents are invested by the Office of this Hon'ble Court in fixed deposit, subject to honouring his undertakings given by the Applicant to this Hon'ble Court in Clauses B(i) and B(ii) hereinabove, the Applicant shall be entitled to amounts as mentioned in the Clause A(ii) hereinabove without any interest and after deducting premature fixed deposit withdrawal bank charges.

D) The Applicant also unconditionally agrees to allow this Hon'ble Court to allow the Respondents to withdraw any amount of interest accrued on the said amounts (fixed deposit) after withdrawal by the Applicant of the amounts deposited as per Clause A(ii) hereinabove after honouring his undertakings given to this Hon'ble Court in Clauses B(i) and B(ii) hereinabove.

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E) On or before 25th April 2024 and per the mutual convenience and availability of the parties hereto and in the presence of each other, the Applicant (at his cost, charges and expenses) shall be allowed to take away any of his belongings/belongings of Ranveer Enterprises (if any) still lying in the suit premises mentioned in the Applicant's/ Ranveer Enterprises' list of belongings annexed to the Insurance Policy No. 152801/11/06/11/00000070 issued by the New India Assurance Company leaving behind the belongings of the Respondents/ Diamond Enterprises mentioned in the Respondents'/ Diamond Enterprises' list of belongings annexed to the Insurance Policy No. 152801/11/06/11/00000070 issued by the New India Assurance Company. Insurance Policy No. 152801/11/06/11/00000070 issued by the New India Assurance Company is annexed hereto and marked as 'Annexure A'.

F) Further parties hereto agrees and undertake to this Hon'ble Court, as follows:-

- (a) The entire aforesaid meeting of the parties at the suit premises, for the aforesaid purpose as mentioned in Clause E hereinabove, shall be video-graphed and parties agree to bear proportionate cost for the same.
- (b) The parties will intimate, in advance, the Vitoria Premises Co-operative Society Ltd. about the Applicant's removal of his
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belongings/ belongings of Ranveer Enterprises(if any) still lying in the suit premises mentioned in the Applicant's/ Ranveer Enterprises' list of belongings annexed to the Insurance Policy No. 152801/11/06/11/00000070 issued by the New India Assurance Company.

- (c) The parties hereto agree and undertake to acknowledge (by affixing their signatures) a List of items/ belongings so removed by the Applicant.
- (d) Whereas the unregistered Agreement dated 15.02.2006 has expired due to efflux of time and whereas the parties hereto have, at various times, claimed to have installed their own locks on the shutter/ main entrance door of the suit premises as well as on the shutter/ door between office/ shop no.217 and the adjoining top terrace of the said shop/office of the suit premises, upon the Respondents depositing all the instalments on or before the 25th of July 2024 with the Office of this Hon'ble Court, **the Applicant undertakes to handover all keys, duplicate keys etc., of the locks on the suit premises**, installed either on the shutter/ main entrance door of the suit premises or on the shutter/ door between office/ shop no.217 and the adjoining top
- Man Mohan Anand*
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terrace of the said shop/office of the suit premises, **to the Respondents on or before the 31st of July 2024** and further undertakes to this Hon'ble Court that he will not disturb the Respondents' peaceful possession, use and enjoyment of the suit premises at any time thereafter;

- (e) Upon the handover of keys as per Clause F(d) hereinabove, the Applicant undertakes to this Hon'ble Court that he will not claim or seek possession, occupation or use of the suit premises before any Court/ Tribunal/ Arbitrator/ local or statutory body/ police authorities and the Applicant accepts and understands that the Respondents, as absolute owners of the suit premises, shall be entitled to use and occupy the suit premises in any way and manner the Respondents deem fit and that the Respondent Nos. 1 and 2 have every right, as owners of the suit premises, to enter into any Agreement with third parties in respect of the suit premises.

- (f) The Respondents agree and undertake to this Hon'ble Court that they will not create any third party rights in the suit premises until all amounts/ instalments as per Clause A(ii) hereinabove have been deposited with the Office of this Hon'ble Court except for
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the purpose of raising funds/ obtaining a loan from financial institutions/ banks by furnishing the suit premises as security and / or collateral to such financial institutions/ banks, so as to enable the Respondents to deposit in this Hon'ble Court, the amounts mentioned in Clause A(ii) hereinabove.

- (g) Upon the handover of keys as per Clause F(d) hereinabove, the Applicant agrees and undertakes to this Hon'ble Court that he or his servants, agents or successors shall not make any complaint of whatsoever nature to any Court/ Tribunal/ Arbitrator/ authorities including police authorities, against the Respondents, their relatives, their servants/ employees, agents and / or successors or against any third parties with whom the Respondents may enter into any Agreement in respect of the peaceful possession, use, occupation and / or enjoyment of the suit premises by the Respondents/ their relatives, by their servants/ employees, agents, and / or successors or by any third parties with whom the Respondents may enter into any Agreement;
- (h) Upon the handover of keys as per Clause F(d) hereinabove, the Applicant undertakes not to disturb the Respondents' peaceful
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possession, use, occupation and / or enjoyment of the suit premises, any time in the future; and

- (i) Upon the handover of keys as per Clause F(d) hereinabove, the Applicant undertakes not to disturb the peaceful possession, use, occupation and / or enjoyment of the suit premises by the Respondents/ their relatives, by their servants/ employees, agents, and / or successors, or by any third parties with whom the Respondents may enter into any Agreement.

G) In view of aforesaid, the parties hereto agree and undertake to this Hon'ble Court to withdraw/ close the following proceedings pending in various Court/ forums/ authorities in the following manner :-

- i) On or before the 10th of August 2024 and on the Applicant receiving the amounts in Clause A(ii) hereinabove after the Applicant has honoured his undertakings given to this Hon'ble Court in Clauses B(i) and B(ii) hereinabove, the Respondents unconditionally agree and undertake to this Hon'ble Court to withdraw Suit no. 766 of 2007 filed by the Respondents against the Applicant and one Mr. Bharat Dimble (Respondent No. 4 herein) in the Court of the Civil Judge Senior Division Pune at Pune.

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- ii) On the deposit of the amounts, mentioned in Clause A(ii) hereinabove, with the Office of this Hon'ble Court on or before 25th July 2024 and on the honouring/ compliance of all the other Undertakings given to this Hon'ble Court in these Consent Terms by the Respondents, the Award dated 28th June 2007 passed by the Learned Arbitrator (Respondent No. 4 herein) stands entirely satisfied and the Applicant withdraws all allegations against the Respondents unconditionally.
- iii) On the deposit of the amounts, mentioned in Clause A(ii) hereinabove, with the Office of this Hon'ble Court on or before 25th July 2024, the Applicant undertakes not to make any claim in respect of said Award dated 28th June 2007, in future, against the Respondents;
- iv) On the deposit of the amounts, mentioned in Clause A(ii) hereinabove, with the Office of this Hon'ble Court on or before 25th July 2024, the Applicant further undertakes not to seek enforcement of the Award dated 28th June 2007 passed by the Learned Arbitrator (Respondent No. 4 herein). The Award dated 28th June 2007 passed by the Learned Arbitrator (Respondent No. 4 herein) is annexed hereto and marked as '**Annexure B**'.
- v) On the deposit of the amounts, mentioned in Clause A(ii) hereinabove, with the Office of this
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Hon'ble Court on or before 25th July 2024, the Applicant agrees and undertakes to this Hon'ble Court that on or before the 10th of August 2024, the Applicant shall unconditionally withdraw his Execution Application i.e., Darkhast No. 597/ 2008 in respect of the Award dated 28th June 2007, filed by the Applicant in the District Court, Pune, against the Respondents.

H) The parties hereto agree and undertake to this Hon'ble Court that on the basis of these Consent Terms, they shall take all necessary steps and offer full co-operation to each other to close/withdraw/ quash the criminal proceedings filed/commenced against each other in the following manner:

- (i) On or before the 15th of June 2024, the Applicant agrees and undertakes to this Hon'ble Court to withdraw Criminal Appeal No. 2251/2016 filed in the Sessions Court, Pune, challenging the judgment and order of acquittal dated 19.11.2013 passed by the JMFC Court Pune (Link Court No. 8) in SCC No. 0003502/ 2007;
 - (ii) On or before the 25th of June 2024, the Respondent No. 1 agrees and undertakes to this Hon'ble Court to file in this Hon'ble Court, an application/ writ petition under section 482 of the Criminal Procedure Code 1973 r/w Article
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- 227 of the Constitution of India with prayers seeking to quash the F.I.R. No. 756/2018 registered in Yerawada Police Station, Pune; and with prayers seeking to quash the chargesheet filed in Regular Criminal Case No. 1693/ 2019 before the 13th JMFC Court Pune;
- (iii) Upon the Respondent No.1 filing, in terms of Clause H(ii) hereinabove, in this Hon'ble Court, an application/ writ petition under section 482 of the Criminal Procedure Code 1973 r/w Article 227 of the Constitution of India with prayers seeking to quash the F.I.R. No. 756/2018 registered in Yerawada Police Station, Pune; and with prayers seeking to quash the chargesheet filed in Regular Criminal Case No. 1693/ 2019 before the 13th JMFC Court Pune, the Applicant undertakes to file a Reply Affidavit in the said application/ writ petition withdrawing all allegations against Respondent No.1 in respect of theft and criminal trespass; and consenting to/ giving his No Objection to quashing of the said F.I.R. No. 756/2018 registered in Yerawada Police Station, Pune, and consenting to/ giving his No Objection to quashing of the said chargesheet filed in RCC No. 1693/ 2019 before the 13th JMFC Court Pune intimating the Respondents/ Respondents' Advocate of the filing of the said
- Md. Moin A*
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Reply Affidavit and serving a copy of the same on the Respondents' Advocate;

- (iv) The parties agree and undertake to this Hon'ble Court to withdraw/ seek quashing of any other Complaint/ FIR/ criminal proceedings filed against each other which is / are pending and not specifically mentioned herein;
- (v) The Applicant agrees and undertake to this Hon'ble Court that he will fully co-operate in getting both, the F.I.R. No. 756/2018 registered in Yerawada Police Station, Pune, as well as the chargesheet filed in RCC No. 1693/ 2019 before the 13th JMFC Court Pune; quashed in the application/ writ petition filed in this Hon'ble Court under section 482 of the Criminal Procedure Code 1973 r/w Article 227 of the Constitution of India as per Clause H(ii) hereinabove and the Applicant further undertakes that he shall not intentionally delay the hearing and disposal of the same.

- I) The parties hereto agree and confirm that the unregistered agreement dated 15.02.2006 executed on Rs. 100/- stamp paper between the parties has come to an end by efflux of time and the Applicant agrees and undertakes to this Hon'ble Court, not to claim any rights of whatsoever nature in respect of the suit premises and / or against the Respondents; and the Applicant further agrees and undertakes to this Hon'ble

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Court not to claim any title or interest in the suit premises before any Court/ Tribunal/local authority/Govt. or statutory authority or body/ Arbitrator under any law.

- J) The Applicant undertakes to this Hon'ble Court that he will not claim any rights under the unregistered Agreement dated 15.02.2006 executed by the Applicant and the Respondents on Rs.100/- stamp paper and the Applicant also undertakes to this Hon'ble Court that he will not seek enforcement of any of the terms/ clauses of the said unregistered Agreement dated 15.02.2006, executed on Rs. 100/- stamp paper, in any Court/ Tribunal/local authority/Govt. or statutory authority or body/ Arbitrator. The said unregistered Agreement dated 15.02.2006 executed by the Applicant and the Respondents on Rs.100/- stamp paper is annexed hereto and marked as 'Annexure C'.
- K) In view of these Consent Terms, this Hon'ble Court be pleased to dispose of the above captioned Civil Revision Application no.238 of 2014 in terms of these Consent Terms, with no order as to costs.
- L) This Hon'ble Court be pleased to direct that the parties may act on the copies of these Consent Terms duly authenticated by the Associate of this Hon'ble Court.

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Nitin Keshav Bhosale

(Nitin Keshav Bhosale), The Applicant

Advil

Advocate of the Applicant

DATE: 17/04/2024

Man Mohan Anand

(Manmohan Anand), Respondent No.1

Suman Anand

(Suman Manmohan Anand), Respondent No. 2

Man Mohan Anand

(Ashish Manmohan Anand), Respondent No.3

AS P.O.A OF ASHISH M.
ANAND

Ashish Manmohan Anand

Advocate of the Respondents Nos. 1 to 3

DATE: 17th April 2024

4. Rights and obligations as stated in the Consent Terms are taken as undertaking given to this Court by all concerned parties who shall be obligated with the same.

5. In view of the terms and conditions in the Consent Terms and more specifically Clause G(i), Suit No. 766 of 2007 shall accordingly be withdrawn on compliance of the obligations stated in the Consent Terms.

6. Registry of this Court is directed to ensure compliance of the contents of Clause B(i) and B(ii). It is clarified that the amounts shall be released to the Applicant on specific compliance of the contents of clause B(i) and B(ii) and appropriate orders in respect of the said compliance shall be placed before the Registry by the Applicant.

7. It is clarified that the amounts which are mentioned in Clause A(ii) shall be deposited by way of Demand Draft with the Registry.

8. In view of this order, Arbitration Appeal No. 10 of 2015 filed and pending between the parties shall also stand disposed.

9. Present Civil Revision Application is disposed of in terms of the Consent Terms as agreed upon by the parties.

10. Liberty to apply.

11. Parties are directed to act on a server copy of this order which shall be uploaded on the website of this Court.

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[MILIND N. JADHAV, J.]

Digitally
signed by
RAVINDRA
MOHAN
AMBERKAR
Date:
2024.04.25
17:58:55
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