

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
APPEAL NO. 10 OF 2016
IN
NOTICE OF MOTION (L) NO. 108 OF 2013
IN
HIGH COURT SUIT NO. 22 OF 2012
IN
TESTAMENTARY PETITION NO. 1156 OF 2011**

Burjor Hormusji Anita ... Appellant

V/s.

Porushesp Hosabd Debara & Anr. ... Respondents

**WITH
NOTICE OF MOTION NO. 1999 OF 2017
IN
APPEAL NO. 10 OF 2016**

Mr. Karl Shroff a/w Mr. B. K. Bali i/by M/s. Bali Associates for
Appellant.

Mr. Neville Deboo i/by Wadia Gandhi & Co. for Respondent
Nos.1 & 2.

Mr. Mangesh D. Chavan for Respondent No.3.

Ms. Mugdha M. Sawant, constituted attorney of Respondent
No.3 is present.

**CORAM : DEVENDRA KUMAR UPADHYAYA, CJ. &
ARIF S. DOCTOR, J.**

DATE : 23rd APRIL, 2024

P.C.:

1. Parties have entered into consent terms, by which, all disputes and differences between the parties *inter se* in respect of the captioned proceedings have been put an end to. We had thus, by our order dated 2nd April, 2024, directed the Prothonotary and Senior Master to verify the consent terms. The Prothonotary and Senior Master, by his report dated 8th April, 2024, has found the consent terms to be in order and complied in all respects.

2. We thus dispose of the present Appeal in terms of the consent terms. We note the undertakings given by the Respondents in the said consent terms and accept the same as being undertakings given to the Court. We have taken on record the affidavit filed by Respondent No.3, in which, Respondent No.3 has stated as follows;

"2. I state that the Trustees of Funds & Properties of the Parsi Punchayet Bombay i.e. Respondent No.3 have proposed partial development of its property known as Sir Shapurji Bharucha Baug situated at S. V. Road, Andheri (West), Mumbai 400058 as per the Plan annexed hereto at Exhibit "A" and have agreed to utilize amount of Rs.2,72,69,205.57 with accrued interest thereon from the Estate of late Jer Minoo Bharucha for the aforesaid

development project and also agreed to name one of the three wings of the said development project as "Jermin Building/Wing" in the memory of and as per the wishes of the deceased late Minoo Sorabji. Bharucha and the deceased Jer Minoo Bharucha, expressed in their respective Probated Wills and have accordingly given an Undertaking to that effect in Clauses Nos. 5 and 6 of the Consent Terms dated 8th April 2024.

3. I submit that the Respondent No.3 agrees and undertakes to endeavor to complete the construction of "Jermin Building/Wing" at the proposed residential development project at Sir Shapurji Bharcha Baug situated at S.V.Road, Andheri (West), Mumbai 400058 within a period of 3 years from the date of the Order passed by this Hon'ble Court."

4. The Constituted Attorney of Respondent No.3, who is the deponent of the affidavit, is present in Court today. She informs us as does learned counsel appearing on behalf of Respondent No.3 that the undertakings given in the said affidavit of Respondent No.3 are the personal undertakings of the Trustees of Respondent No.3 and thus accordingly accepted as such.

5. The Appeal and all interlocutory proceedings are disposed of in terms of the above order.

(ARIF S. DOCTOR, J.)

(CHIEF JUSTICE)