

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.2217 OF 1997

Murlidhar Krishnaji Apte ...Petitioners
(since deceased) thru' his legal heirs and
Representatives Mr. Shrikant Murlidhar
Apte & Ors.

Versus

Bhagwandas Gopaldas Bhate ...Respondents
(since deceased) thru' his legal heirs
and Representatives.

WITH

INTERIM APPLICATION NO. 13941 OF 2023

IN

WRIT PETITION NO.2217 OF 1997

Bhagwandas Gopaldas Bhate ...Applicants
(since deceased) thru' his legal heirs
and Representatives Bhavna Bhagwandas
Bhate & Ors.

In the matter of :-

Murlidhar Krishnaji Apte ...Petitioners
(since deceased) thru' his legal heirs and
Representatives Mr. Shrikant Murlidhar
Apte & Ors.

Versus

Bhagwandas Gopaldas Bhate ...Respondents
(since deceased) thru' his legal heirs
and Representatives Bhavna Bhagwandas
Bhate & Ors.

WITH

SECOND APPEAL NO. 97 OF 1997

Murlidhar Krishnaji Apte ... Appellant

Versus

Bhagwandas Gopaldas Bhate ...Respondent

**WITH
SECOND APPEAL NO. 416 OF 1997**

Murlidhar Krishnaji Apte	... Appellant
<i>Versus</i>	
Bhagwandas Gopaldas Bhate	...Respondent

Mr. Umesh Mankapure a/w Mr. Satyan A. Surana for the Petitioner/Appellant.
Mr. Mandar Limaye, Advocate for Respondent.
Ms. Anuja S. Gotad, APP for the State.
Mr. Shrikant Apte- Petitioner present through VC.
Ms. Bhavna Bhate, Respondent No.1A, Ms. Trupti Anuj Dhokey, appearing through Online.
Ms. Bhakti V. Raje, Respondent No.1B and Ms. Shraddha Bhate, Respondent No.1D are present in Court – in person.

CORAM: MADHAV J. JAMDAR, J.
DATED : 12th March 2025

P.C.:

1. Heard Mr. Mankapure, learned Counsel for the Appellant/ Petitioner and Mr. Limaye, learned Counsel for the Respondents. Both of them state that the parties have arrived at settlement in terms of the Consent Terms and tenders Consent Terms.

2. The Consent Terms are signed by the Appellant No.4(a) to 4(e) and 5. The Consent Terms are also signed by the Respondent No.1(a) to 1(d).

3. Mr. Mankapure states that the Appellant No.1(1) and 3 i.e. Shrikant Apte is personally present in the Court through VC and Consent Terms are agreeable to him. He states that the Appellant No.1(2) and Appellant No. 2(3) are not available and therefore, they have not signed the Consent Terms. Mr. Mankapure, learned Counsel states that in any case, all other family members have signed the Consent Terms and the Consent Terms are acceptable even to them.

4. The Respondent No.1A is present through VC. The Respondent No.1B and Respondent No.1D are present in person. All the parties present state that the dispute between the parties is settled in terms of the Consent Terms.

5. The Consent Terms are also signed by respective Advocates. The respective Advocates identifies signatures of the respective parties.

6. Accordingly, the Consent Terms are taken on record and marked "X" for identification. The Consent Terms read as under:

“CONSENT TERMS

1. The predecessor of Respondents was the Original Plaintiff who had filed the Special Civil Suit No. 63 of 1976 against the Appellants/ Original Defendants for specific performance of an oral agreement. The suit property comprises of two plots i.e., Plot No. 423/ 424 – A and 424 – B, totally admeasuring in all 8000 sq.ft., situated at Madhav Nagar, Taluka Miraj, District – Sangli (hereinafter referred to as “the said Suit Property”).

2. The said Special Civil Suit No. 63 of 1976 came to be decreed on 26th September 1991, by directing the predecessor of Respondents to deposit a sum of Rs.29,100/- (Rupees Twenty Nine Thousand One Hundred Only) within a period of 2 (two) months from the date of decree and Appellants/ Original Defendants to execute the sale deed of the said Suit Property in favour of Respondents.

3. The Appellants herein preferred Regular Civil Appeal No. 589 of 1991 against the judgment and decree dated 26th September 1991 passed in Special Suit No. 63 of 1976. The Regular Civil Appeal No. 589 of 1991 was dismissed by and under a judgment and decree dated 29th November 1997.

4. The Appellants herein being aggrieved by the Judgment and decree dated 29th November 1997, passed in Regular Civil Appeal No. 589 of 1991 preferred the Second Appeal No. 97 of 1997 before this Hon'ble Court and said appeal was admitted by this Hon'ble court on 22nd March 1997. The same is pending for hearing and final disposal.

5. The predecessor of Respondents was the Original Plaintiff in Regular Civil Suit No. 557 of 1983 who had filed the Suit against the Appellants/ Original Defendants for injunction inter alia restraining them the Appellants from disturbing their possession over the said Suit Property.

6. The said Regular Civil Suit No. 557 of 1983 came to be decreed on 26th September 1991, whereby the Appellants were directed not to disturb the possession of the Respondents over the said Suit Property.

7. The Appellants herein being aggrieved by the judgment and decree dated 26th September 1991 in Regular Civil Suit No. 557 of 1983, preferred the Regular Civil Appeal No. 591 of 1991. The Regular Civil Appeal No. 591 of 1991 was dismissed by judgment and decree dated 29th November 1997.

8. The Appellants herein aggrieved by the judgment and decree dated 29th November 1997 passed in Regular Civil Appeal No. 591 of 1991 preferred the Second Appeal No. 416 of 1997 before this Hon'ble Court and the said Second Appeal was admitted by this Hon'ble court on 22nd March 1997. The same was directed to be heard along with the Second Appeal No. 97 of 1997 and is pending for hearing and final disposal.

9. The Appellants herein had also filed a Regular Civil Suit No. 397 of 1976 against the predecessor of Respondents for possession of the said Suit Property on the ground of bonafide requirement and default under provision of the Bombay Rents, Hotel and Lodging House Rates Control Act, 1947.

10. The said Regular Civil Suit No. 397 of 1976 came to be dismissed on 26th September 1991 by the Ld. Trial Court.

11. The Appellants herein preferred Regular Civil Appeal No. 590 of 1991 against the judgment and decree dated 26th September 1991 passed in Regular Civil Suit No. 397 of 1976. The Regular Civil Appeal No. 590 of 1991 was dismissed by judgment and decree dated 29th November 1997.

12. The Appellants herein aggrieved by the judgment and decree dated 29th November 1997 passed in Regular Civil Appeal No. 590 of 1991 preferred the captioned Writ Petition No. 2217 of 1997 before this Hon'ble Court and said Writ Petition was admitted by this Hon'ble Court on 23rd June 1997 and was to be heard along with the Second Appeal No. 97 of 1997 and Second Appeal No. 416 of 1997. The same is pending hearing and final disposal before this Hon'ble Court.

13. The parties to the above Second Appeals and Writ Petition are common and the Suit Properties involved in 2 (two) Second Appeals and the Writ Petition are common. The Parties to the above matter have amicably decided to settle the dispute amongst themselves and have arrived at following Consent Terms which are reproduced hereunder:

a. The Appellant Nos. 4 (a) – (e) and 5 agree and undertake to this Hon'ble Court to pay an amount of Rs.32,50,000/- (Rupees Thirty Two Lakhs Fifty Thousand Only) as a one-time settlement amount to the Respondents/ Original Plaintiffs. The Appellant Nos. 4

(a) – (e) and 5 agree and undertake to make the total payment of Rs.32,50,000/- (Rupees Thirty Two Lakhs Fifty Thousand Only) by way of two (2) Demand Draft dated 5.03.2025 & 10.03.2025, bearing reference no.974374 & 974375, drawn by HDFC, Sangali Bank in the name of Bhavna Bhagwandas Bhate i.e., Respondent No. 1A. The Appellant Nos. 4 (a) – (e) and 5 agree and undertake to this Hon'ble Court to handover the said Demand Draft dated 5.03.2025 & 10.03.2025 amounting to Rs.32,50,000/- (Rupees Thirty Two Lakhs Fifty Thousand Only) to the Respondents on the date of filling of the present Consent Terms before this Hon'ble Court. The Respondents have agreed amongst themselves that the Demand Draft shall be in the name Bhavna Bhagwandas Bhate i.e., Respondent No. 1A herein.

b. The Respondents agree and undertake to this Hon'ble Court that upon the receipt of the entire consideration of Rs.32,50,000/- (Rupees Thirty Two Lakhs Fifty Thousand Only) i.e., upon clearance of the said Demand Draft dated 5.03.2025 & 10.03.2025, the Respondents within a period of two weeks thereafter shall handover the entire vacant and peaceful possession of the said Suit Property to the Appellants.

c. The Respondents upon receipt of the entire consideration of Rs.32,50,000/- (Rupees Thirty Two Lakhs Fifty Thousand Only) shall seize to have any right, title and interest in the said Suit Property.

d. The Appellants agree and undertake to this Hon'ble Court that the Appellants shall have no-objection whatsoever with the withdrawal of the amount of Rs.29,100/- (Rupees Twenty Nine Thousand One Hundred Only) along with interest accrued thereon by

the Respondents, which was deposited by the Respondents before the Ld. Trial Court on 15th November 1991 pursuant to judgment and decreed dated 26th September 1991 passed by Ld. Civil Judge, Senior Division, at Sangali in Special Civil Suit No. 63 of 1976. The Appellants agree and undertake that save and except the aforementioned amount of Rs.29,100/- (Rupees Twenty Nine Thousand One Hundred Only), the Appellants have no-objection with the Respondents withdrawing any/ all amounts along with interest accrued thereon, which have been deposited by the Respondents before the Ld. Trial Court as well as the Ld. Appeal Court.

e. In view of the amicable settlement arrived between parties and in view of the fact that the Appellant Nos. 4 (a) – (e) and 5 have paid the Respondents an amount of Rs.32,50,000/- (Rupees Thirty Two Lakhs Fifty Thousand Only), the reliefs as claimed in Regular Civil Suit No. 63 of 1976 as well as Regular Civil Suit No. 557 of 1983 filed by the Respondents do not survive and is disposed off accordingly.

f. In view of fact that the vacant and peaceful possession of the said Suit Property will be handed over to the Appellants on receipt of the entire consideration of Rs.32,50,000/- (Rupees Thirty Two Lakhs Fifty Thousand Only) by the Respondents, the Regular Civil Suit No. 397 of 1976 filed by the Appellants would become infructuous and may be disposed off.

g. In view of the amicable settlement arrived between parties, the Sale Deed dated 10.10.1983 executed and registered between the family Murlidhar

Krishnaji Apte (since deceased) i.e., Appellant No. 1 – 3 and the family of Suresh V. Patil i.e., Appellant Nos. 4 – 5 with respect to an area admeasuring 8000 sq.ft., out of the said Suit Property stands confirmed.

h. Both the Appellants and the Respondents agree that with this arrangement amongst themselves, the entire controversy between the parties gets resolved and there would be no claims amongst themselves with respect to the said Suit Property.

i. In view of the present Consent Terms arrived at between the parties, the Judgment and Decree dated 26th September 1991 passed by Civil Judge (Senior Division), Miraj in Special Civil Suit No. 63 of 1976 and in Regular Civil Suit No. 397 of 1976 as confirmed by the 2nd Additional District Judge, at Sangli in Regular Civil Appeal No.517 of 1992 and Regular Civil Appeal No.518 of 1992 would stand modified in terms of the above Consent Terms.

j. The undertaking given by the Appellants in paragraph nos. 13 (a) and (d) and the undertaking given by the Respondent in paragraph no. 13 (b) are hereby accepted and taken on record.

k. All Pending Civil Applications/ Interim Applications, if any, stand disposed off in view of the above Consent Terms.

l. No order as to costs.”

7. Mr. Mankapure, learned Counsel for the Appellant/Petitioner states that the Demand Drafts, which are mentioned in paragraph

13(a) have been handed over to the Respondent No. 1(b) and 1(d) who are personally present in the Court.

8. Accordingly, Writ Petition No. 2217 of 1997, Second Appeal No. 97 of 1997 and Second Appeal No. 416 of 1997 are disposed of in terms of the Consent Terms, however, with no order as to costs.

(MADHAV J. JAMDAR, J.)