

Tikam

VAISHALI
ANIL
TIKAM

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 386 OF 2025

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Yogesh Ratilal Gandhi and Anr.

...Petitioner

Versus

Aspi Jal S/o. Jal Bejon Jal and Anr.

...Respondents

Mr.Darshit K. Jain i/b. Divya Jain, Advocate for the Petitioner.

Mr.Jamsheed Master i/b. Ms. Natasha Bhot, Advocate for the Respondents.

Mr. Hiten Sevak, Constituted Attorney of the Petitioner present
Respondent Nos.1 and 2 are present.

CORAM: MADHAV J. JAMDAR, J.
DATED: 10 JANUARY 2025

P.C.:

1. In this Writ Petition filed under Article 227 of the Constitution of India, the challenge is to the legality and validity of the order dated 20th December, 2024 passed by the learned Judge, Small Causes Court, Mumbai below Exhibit '59' in R.A.E. Suit No. 581 of 2019.

2. Mr. Darshit Jain, learned Counsel for the Petitioner and Mr. Jamsheed Master, learned Counsel for the Respondents state that parties have arrived at consent terms and tenders the consent terms. The consent terms are signed by the Constituted Attorney of the Petitioner and Respondent Nos.1 and 2. The consent terms are also signed by the respective Advocates. Mr. Hiten Sevak, the Constituted Attorney of the Petitioner and Respondent Nos.1 and 2 are personally present in the Court. All of them state that the parties have settled the dispute raised in the Writ Petition in terms of the consent terms.

Accordingly, consent terms are taken on record and marked 'X' for the purpose of identification. The consent terms read as under:

"CONSENT TERMS

1. The present Writ Petition emanates from an Order dated 20th December, 2024 passed by the Hon'ble Small Causes Court at Dhobi Talao, Mumbai passed in R.A.E. Suit No. 581 of 2019 below Exhibit 59. The said R.A.E. Suit is expedited by the Hon'ble Small Causes Court by Order dated 25th September, 2019.
2. The parties have now arrived at a mutual understanding so as to record the cross-examination of Defendants' Witness NO.1 being Mr. Yogesh Ratilal Gandhi, Petitioner No.1 herein.
3. The parties have therefore agreed to record the cross-examination in the following manner.
4. The parties have therefore agreed to record the cross-examination in the following manner:
 - a. Ms.Khushi Bhadracha, Advocate of this Hon'ble Court be appointed as a Court Commissioner to record the cross examination of the Defendants' Witness No.1 on 23rd January 2024 at 4.30 p.m. and fix other appropriate dates to make best efforts to complete cross examination of Petitioner No.1.
 - b. The cross examiner as well as all concerned will login virtually on a virtual platform. A representative of the Plaintiff/Respondent No.1 herein shall be entitled to remain present at the venue given by Petitioner No.1 at the time of cross examination.
 - c. Petitioner No.1 will communicate his answers

in writing during cross examination. The answers as may be written by the witness will be recorded by the Commissioner as his answers.

d. The report of the Court Commissioner will be filed in the Hon'ble Court of Small Causes at Mumbai within a period of one week from the conclusion of the cross examination.

5. In light of the above, the Order dated 20th December 2024 stands set aside in the above mentioned terms.

6. It is further clarified that all Defendants would be entitled to file evidence of their witnesses as may be permissible in law.

7. Cost of the Court Commissioner including administrative costs of steno, etc. to be divided by both the parties equally.

8. The captioned Writ Petition be disposed of in the aforementioned terms.

9. These Consent Terms are signed by the Constituted Attorney of the Petitioners."

3. Accordingly writ petition is disposed of in terms of the consent terms with no order as to costs.

[MADHAV J. JAMDAR, J.]