

Arjun

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

WRIT PETITION NO.1070 OF 2025

Kulin S. Kotak

...Petitioner

Versus

M/s. Dwarkadas & Co. Pvt. Ltd. & Ors.

...Respondents

WITH

WRIT PETITION NO.1071 OF 2025

Kulin S. Kotak

...Petitioner

Versus

M/s. Dwarkadas & Co. Pvt. Ltd. & Ors.

...Respondents

WITH

WRIT PETITION NO.1072 OF 2025

Kulin S. Kotak

...Petitioner

Versus

M/s. Dwarkadas & Co. Pvt. Ltd. & Ors.

...Respondents

Mr. Sanjeev M. Gorwadkar, Senior Advocate a/w Nishant Vyas, Yogesh Vyas, Parth Chowdhary & Jikesh Shah, for the Petitioner.

Ms. Snehal Modi a/w Madhura Kathre, for Respondent Nos.1 to 3.

CORAM: MADHAV J. JAMDAR, J.

DATED: 25 FEBRUARY 2025

P.C.:

1. The challenge in all these Writ Petitions is to the Orders dated 12th December 2024 passed by the learned Judge, Small Causes Court, Mumbai by which the Applications filed by the Defendant No.4(c) bearing Exhibit - 360, Exhibit - 361 and Exhibit - 362 in RAE & R Suit No.1027/3634 of 1980 for issuing witness summons to various persons

have been rejected. The Revision Applications challenging the same are also rejected.

2. Heard Mr. Gorwadkar, learned Senior Counsel for the Petitioner and Ms. Modi, learned Counsel for Respondent Nos.1 to 3.

3. After arguing for some time, Ms. Modi, learned Counsel for the Respondent Nos.1 to 3, on instructions, submitted that for avoiding the delay in conducting the trial, the documents which the Petitioner is seeking to prove by issuing witness summons by said Applications bearing Exhibit - 360, Exhibit - 361 and Exhibit – 362, be marked as exhibits.

4. Accordingly, Mr. Gorwadkar, learned Senior Counsel for the Petitioner and Ms. Modi, learned Counsel for Respondent Nos.1 to 3 tender Consent Minutes Between Petitioner and Respondent Nos.1 to 3 dated 25th February 2025. The said Consent Minutes are signed by learned Advocate appearing for the Petitioner and learned Advocate appearing for the Respondent Nos.1 to 3. Accordingly, the said Consent Minutes are taken on record and marked “X” for identification. The said Consent Minutes read as under :-

- “1. Agreed by consent that documents produced with Affidavit in Chief by DW 1 (Defendant No. 4C at Serial number 21 (Article Y-10), Serial number 22 (Y-11), Serial Number 23 (Article Y-12), and Serial number 26 (Article Y-14) be marked as Exhibits.*
- 2. Application for issuance of witness summons at Exhibit No. 360, 361 and 362 corresponding Writ Petition No. 1070,*

1071 and 1072 of 2025 respectively be disposed of in terms of this Minutes.

3. *The consequential orders dated 14/1/2025 thereby foreclosing evidence of defendants and the order dated 17/1/2025 thereby forfeiting the right to argue the suit passed by the Trial Court are set aside and petitioner is allowed to argue the case as well.*
4. *The right of the Plaintiffs to argue on the relevancy of these documents is kept open in the Trial.”*

5. Accordingly, Writ Petition No.1070 of 2025, Writ Petition No.1071 of 2025 and Writ Petition No.1072 of 2025 are disposed of in terms of the Consent Minutes.

6. As the Suit is of the year 1980, Mr. Gorwadkar, learned Senior Counsel and Ms. Modi, learned Counsel appearing for the respective parties, on instructions, state that both the parties will co-operate with the learned Trial Court for disposal of the said Suit in expeditious manner.

[MADHAV J. JAMDAR, J.]