

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

ORIGINATING SUMMONS NO. 3 OF 2025

Hemangi Nabar and others ... Plaintiff

Versus

Girish Gaitonde and others ... Defendants

.....
 Ms. Samridhi Lodha instructed by Mr. Sanjay Rago, Advocate for the Plaintiffs.

None for the Defendants.

.....
CORAM : ABHAY AHUJA, J.
DATE : 3 DECEMBER 2025

PC. :

1. This Originating Summons has been listed before this Court, pursuant to a circulation sought on behalf of the trustees of the trust by the name of LG Family Trust, which is a private trust seeking determination of questions stated to be affecting the rights or interest of the person claiming to be beneficiary under the trust and also for the determination of questions arising in the administration of the private trust.

2. Ms. Lodha, learned Counsel appears for the Plaintiffs and submits that the case of the Plaintiffs falls under Rule 238(a) and (g) of the Bombay High Court (Original Side) Rules, 1980, and draws this Court's attention to paragraph 21, where the following three questions for the determination of this Court have been set out :

(a) Whether the Defendants under Clause 20(d) of the Trust Deed read with Section 78(a) of the Indian Trusts Act, 1882 are entitled to dissolve the Trust by affirming consent affidavits ?

(b) If yes, whether on receipt of the consent affidavits dated 28 May 2025 of the Defendants, the Plaintiffs can dissolve the Trust, liquidate its assets and distribute the corpus amongst the Defendants ?

(c) If yes, whether on closure/dissolution of the Trust, the amount/assets distributed to the Defendants, be treated as legacy/inheritance received from the Settlor ?

3. Ms. Lodha has taken this Court through Clause 20(d) of the Trust Deed as well as Section 78(a) of the Indian Trust Act, 1882 and submits that the beneficiaries of the trust have filed consent affidavits (pages 461 to 472), consenting to the closure/dissolution of the L.G. Family Trust under Clause 20(d) of the Trust Deed without service of the originating summons upon them.

4. Ms. Lodha, has also taken this Court through a communication dated 26th May 2025 from the L.G. Family Trust to the beneficiaries and submits that since the beneficiaries are concerned about the heavy taxes in the United States in view of the continuation

of the trust and the resulting tax exposure, the beneficiaries wish to dissolve the trust and liquidate the trust corpus, after which the proceeds can be remitted abroad, subject to the applicable legal and regulatory provisions.

5. It is observed that the letter from LG Family Trust is of 26th May 2025 whereas the consent affidavits appear to have been affirmed on 24th May 2025 which is prior to the date of the said communication.

6. Under Rule 240 of the the Bombay High Court (Original Side) Rules, 1980, it is provided that where the summons is issued at the instance of the trustees for determination of any question under sub-sections (a), (e), (f) or (g) of Rule 238, the persons whose rights or interest are sought to be affected are to be served with the summons.

7. Accordingly, this Court directs service of the originating summons upon the beneficiaries, who are the Defendants in the Originating Summons and an appropriate affidavit of service be filed by the next date.

8. List on **8th January 2026**.

(ABHAY AHUJA, J.)