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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
INTERIM APPLICATION NO. 3142 OF 2025
IN
COMMERCIAL SUIT NO. 27 OF 2022**

Rajesh Laxmichand Bheda Applicant

IN THE MATTER BETWEEN

Ketan Vallabhji Veera and Ors ... Plaintiffs

vs.

Municipal Corporation of Greater Mumbai ... Defendants
and Ors

**WITH
INTERIM APPLICATION NO. 3144 OF 2025
IN
COMMERCIAL SUIT NO. 27 OF 2022**

Entire Estates Pvt Ltd Applicant

IN THE MATTER BETWEEN

Ketan Vallabhji Veera and Ors ... Plaintiffs

vs.

Municipal Corporation of Greater Mumbai ... Defendants
and Ors

Mr. Nigel Quraishy a/w. Mr.Dushyant Krishnan i/b. Garfield
Mendonca for Plaintiffs.

Mr. Kaustubh Thipsay for Defendant Nos. 8 to 11 and 14.

Mr. Ashish Kamat, a/w. Mr. Maulik Vora, Ms. Akshata Pawar,
i/b. Pramodkumar and Co. for Defendant Nos. 2 to 7.

Mr. Aadhil Parshurampurya a/w. Mr. Kartikey Aavasthi for
defendant No.9.

CORAM : GAURI GODSE, J.

DATED : 24th SEPTEMBER 2025

ORDER:

1. Interim Application No. 3142 of 2025 is filed by defendant no. 3 and Interim Application No. 3144 of 2025 is filed by defendant no. 9 under Order VII Rule 10 of the Code of Civil Procedure 1908 ("CPC") for a direction to return the plaint for presentation before the appropriate court. Alternatively, the applicants have prayed that necessary directions be issued to renumber the plaint as a regular suit. It is contended by these defendants that the suit filed and instituted as a commercial suit would not fall under the definition of Section 2(1)(c) of the Commercial Courts Act ('said Act').

Submissions On Behalf Of Defendant Nos. 3 and 9:

2. Learned counsels for these defendants relied upon various averments in the plaint to point out that the plaintiffs have identified themselves as co-owners of the subject property. Although they have prayed for relief of possession and declaration in respect of their undivided share in the suit

property, the claim is based on a partnership firm that is admittedly dissolved. There is no dispute that the deed of dissolution was executed on 31st December 1986, and thereafter, the deed of addendum to the dissolution deed was executed on 16th June 1987. Even according to the plaintiff, there is no partnership firm in existence. The documents referred to and relied upon by the plaintiffs identify them as co-owners and not as partners. The suit filed, seeking a declaration of co-ownership, possession, and other incidental reliefs, does not pertain to the partnership agreement, as the partnership firm has been dissolved.

3. Learned counsels for these defendants submitted that the plaintiffs have not pleaded that any of the reliefs claimed in the suit would fall for consideration under the Commercial Division. The jurisdiction clause in paragraph no. 72 does not explain that the relief claimed in the suit would fall within the jurisdiction of the commercial division. The plain reading of the plaint reveals that the plaintiffs are claiming the reliefs as co-owners and not as partners. Once it is admitted that the partnership firm is dissolved, the claim in the suit would relate to the

property dispute and thus would not fall under any of the clauses that define commercial disputes.

4. To support their submissions, learned counsels for these defendants relied upon the decision of the Hon'ble Apex Court in the case of ***Ambalal Sarabhai Enterprises Limited Vs. K.S. Infraspace LLP and Another***¹. The relevant observations in paragraph no. 8 have been relied upon to support their submissions that the plaintiffs must plead that the court, which is a commercial court exclusively constituted to try the commercial dispute, has the jurisdiction to try the suit. It is thus contended that what is required to be seen is the averment in the plaint to indicate that the suit falls within the commercial dispute. On a similar proposition, they relied upon the decision of this court in the case of ***Bharat Huddanna Shetty Vs. Ahuja Properties and Developers and Others***², and the decision of the Delhi High Court in the case of ***Jitendra Gupta Vs. Ritu Gupta and Others***³.

5. Learned counsel for defendant no. 3 points out that in the

1 (2020) 15 SCC 585

2 2021 SCC Online Bom 13984

3 2024 SCC Online Del 7177

decision of the Delhi High Court, the dispute involved was between the legal heirs of the deceased partners, where the partnership agreement did not provide for the distribution of assets. The Delhi High Court held that the claims agitated in the suit would be at the best under the Partnership Act and not in furtherance of the partnership agreement as stipulated in Section 2(1)(c)(xv) of the said Act. Learned counsel for defendant no.9, submitted that by following the legal principles settled in the case of *Ambalal Sarabhai Enterprises Limited*, this court in the case of *Bharat Huddanna Shetty*, held that the suits which are not actually relating to commercial dispute but being filed merely because of the high value and with the intention of seeking early disposal would only clog the system and block the way for the genuine commercial disputes which may have to be entertained by the commercial courts as intended by the lawmakers. This court thus held that the procedural laws require liberal interpretation, but the objective behind any provision, procedural or substantive, ought not to be forgotten with reference to the suit instituted under the commercial division. Hence, according to the learned counsel

for defendant no. 9, this court held that the liberal approach may, thus, trigger the law of unintended consequences. Learned counsels for the defendants therefore submitted that on the plain reading of the plaint, the dispute would not fall under any of the clauses defining commercial dispute under Section 2(1)(c) of the said Act.

Submissions On Behalf Of The Plaintiffs:

6. Learned counsel for the plaintiffs relied upon the averments in the plaint, which refer to the ownership of the suit property of the partnership firm, pursuant to the registered conveyance of 6th May 1980. He points out the pleadings regarding the dissolution of the partnership firm and the distribution of its assets. He relied upon the relevant pleadings from paragraph 13 onwards, with reference to the deed of dissolution and the deed of addendum. According to the learned counsel for the plaintiffs, the relevant pleadings in the plaint describe the dispute between the parties arising out of the deed of dissolution of the partnership and the deed of addendum.

7. Learned counsel for the plaintiffs submitted that the suit property is described in the plaint, read with the schedule referred to as Exhibit A1. The document of deed of dissolution and deed of addendum are annexed to the plaint. Thus, a dispute arose between the parties regarding the undistributed assets, and the parties executed a deed of addendum. Therefore, even after the partnership firm is dissolved, the dispute that arose between the parties is under the partnership agreement, the dissolution deed and the deed of addendum.

8. Learned counsel for the plaintiffs also points out the document entered into by the defendants after dissolution of the partnership and the execution of the addendum to the dissolution deed. He relies upon the deed of confirmation dated 4th July 2007, which is shown to have been executed by VLDC, i.e. the partnership firm, as the vendor. Therefore, if the plaint is read as a whole, the dispute that arose between the parties is out of the terms and conditions agreed between the parties under the deed of dissolution and subsequent deed of addendum to the dissolution deed. The jurisdiction clause in paragraph no. 72 of the plaint is in reference to the territorial

jurisdiction, which has to be read with other pleadings in the plaint, which refers to the dispute that arose in view of the terms and conditions of the agreement between the parties as partners and the subsequent documents executed by the defendants. Therefore, if the prayers are read in the context with the other pleadings in the plaint, it is abundantly clear that the dispute that arises in the suit is between the partners and the agreement executed between the partners. Therefore, the dispute between the parties would fall within the definition of the commercial dispute as defined under Section 2(1)(c)(xv).

9. The dispute about the documents executed by defendants, which are the subject matter of the suit, would also fall under Section 2(1)(c)(vii) of the said Act, which deals with the agreements relating to the immovable property used exclusively in trade or commerce. He submits that even if the dispute did not fall under sub-clause (vii), the dispute between the parties arises out of the agreements executed by the partners and therefore the dispute squarely falls within the definition of Section 2(1)(c)(xv) of the said Act.

10. Learned counsel for the plaintiffs further submitted that

these defendants have filed an application for condonation of the delay in filing the written statement. Hence, to overcome the bar of the limitation period to file a written statement in the commercial suit, these defendants have filed these applications raising a frivolous objection that the dispute would not fall within the jurisdiction of the commercial dispute.

Consideration Of The Submissions and Conclusions:

11. I have perused the plaint and the documents annexed to the plaint. There is no dispute that Veera Land Development Corporation ('VLDC'), i.e. the partnership firm, was the owner of the suit property. It is the plaintiffs' case that defendant nos. 2 to 8 and 10 to 17 are either the partners or the heirs and legal representatives of the erstwhile partners. Learned counsel for the applicants denied these contentions that defendant nos. 2 to 8 and 10 to 17 would either be partners or heir and legal representative of the erstwhile partners. A finding on whether these defendants were partners or heirs and legal representatives of the erstwhile partners would not be necessary at this stage to decide whether the suit would fall under the definition of a commercial dispute. However, there is

no dispute that the suit property forms part and parcel of the properties owned by VLDC, i.e. a partnership firm. The execution of the deed of dissolution and subsequent deed of addendum is also not in dispute. The parties may have a dispute with regard to the two different documents that are executed as an addendum to the dissolution deed. However, the relevant pleadings in the plaint pertain to the distribution of the partnership firm's assets as recorded in the original deed of dissolution and the clauses under the addendum to the dissolution deed.

12. The plaintiffs have pleaded that in the first deed of dissolution, the suit property was not made part of the distribution of the assets. However, it is made part of the distribution of the assets in the deed of addendum as all the undistributed assets, including the plot, roads and rights thereto. The plaintiffs thus claim that despite the arrangement between the parties regarding distribution of the undistributed assets, which includes the suit properties, the partners have executed the subsequent documents without including the plaintiffs. All the subsequent documents are substantially

pleaded in the plaint with reference to their right to claim a share as agreed under the terms and conditions of the addendum to the deed of dissolution. Two of the deeds executed by the defendants were executed after the deed of addendum, i.e., on 4th July 2007 and 13th August 2008. I have perused these deeds, which are annexed to the plaint. Both documents refer to VLDC, the partnership firm, as the vendor.

13. In view of the execution of these documents, the plaintiffs had issued a public notice. The plaintiffs have further pleaded that in view of the subsequent documents, defendant no.1, i.e. municipal corporation, accepted the surrender of land and granted TDR. Thus, it is contended by the plaintiffs that, despite the arrangement between the partners as agreed upon in the deed of addendum, the documents were executed *inter se* between the defendants without notifying the plaintiffs. Hence, the plaintiffs filed the suit seeking relief in respect of the suit properties, in view of the terms and conditions agreed under the deed of dissolution of the partnership firm and the original deed of addendum to the dissolution deed.

14. Thus, the pleadings and the prayers clearly reveal that

the dispute raised in the suit arises out of the terms and conditions between the partners of VLDC, who was admittedly the owner of the suit property. Thus, the dispute that arises in the suit would fall within the definition of Section (2)(1)(c)(xv) of the said Act. The sub-clause (xv) refers to the partnership agreement. Thus, any dispute arising from the partnership agreement would fall within the definition of a commercial dispute. The deed of dissolution and the addendum to the deed of dissolution are executed between the partners of VLDC. Hence, the documents and the dispute arising out of the terms and conditions of the documents would clearly fall within the definition of sub-clause (xv), which refers to the partnership agreement.

15. As held by the Hon'ble Apex Court in the case of ***Ambalal Sarabhai Enterprises Limited***, for the purpose of deciding whether the suit would fall within the definition of a commercial dispute, the averments in the plaint are required to be ascertained. In the facts before the Hon'ble Apex Court, the issue was with regard to the territorial jurisdiction as to whether it would fall within the exclusive territorial jurisdiction of the

commercial court. The Hon'ble Apex Court held that it is necessary to plead and indicate that the immovable property under the mortgage deed was the subject matter of the suit, and it was necessary to plead and indicate that the same was being used in trade and commerce, due to which the jurisdiction of the commercial court is invoked. In the absence of such pleadings in the plaint, any explanations sought to be put forth subsequently, would only lead to a situation that if an objection is raised, in every suit a consideration would be required based on extraneous material even to ascertain as to whether the intended transaction between the parties was of such a nature that it is to be construed as a commercial dispute.

16. A deed of dissolution of partnership is a contract between the partners that determines or outlines the distribution of assets and division of profits and liabilities, specifying the roles of the partners and detailing the division of profits and liabilities, executed by all partners, generally in accordance with the terms of the original partnership agreement or by mutual agreement, to bring the partnership firm to an end and settle its

financial affairs to conclude the relationship between the partners. In the present case, the plain reading of the plaint indicates that the transactions and the dispute pertain to the terms and conditions agreed between the partners of a partnership firm. The Deed of Dissolution of partnership relied upon by the plaintiffs is a written contract that formally dissolved the partnership by outlining the distribution of the firm's assets. The addendum to the deed of dissolution outlined the distribution of the undistributed assets.

17. Hence, on plain reading of the plaint and the documents annexed to the plaint, the dispute that arises in the suit clearly falls within the definition of the commercial dispute as defined under Section 2(1)(c)(xv) of the said Act. The other two decisions of this court and the Delhi High Court also refer to the pleadings in the plaint for the purpose of examining whether the suit would fall within the definition of a commercial dispute.

18. The return of a plaint under Order VII Rule 10 of the CPC for presentation of the suit before the appropriate court would arise in the event of any territorial or pecuniary lack of jurisdiction. The present suit is filed and registered in the

commercial division of this court. The commercial division of the Bombay High Court is a part of the high court having ordinary original civil jurisdiction. Therefore, even if the suit was held as not falling in the category of commercial disputes, the suit would continue to be on the file of the high court and registered as a regular suit. Hence, the prayer for the return of the plaint cannot be considered in the present case. In view of the pleadings in the plaint as discussed in the preceding paragraphs, it is apparent that the dispute in the suit arises out of a partnership agreement for dissolution of the partnership firm and the addendum to the deed of dissolution. The pleadings and the documents do not reveal any of the agreements used exclusively in trade or commerce. Hence, the dispute would not be covered under clause (vii) of Section 2(1) (c) of the said Act. However, the dispute would fall under the definition of the commercial dispute as defined under Section 2(1)(c)(xv) of the said Act. Hence, there is no question of renumbering the plaint as a regular suit.

19. For the reasons recorded above, the applications are dismissed.

(GAURI GODSE, J.)