IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION

ORIGINATING SUMMONS NO. 3 OF 2025

Hemangi Nabar & Ors. ...**Plaintiffs**
V/s.
Girish Gaitonde and Ors. ...**Defendants**

Ms. Samridhi Lodha i/b Mr. Sanjay Rego for the Plaintiff.
Defendant No. 1 present in person.
Defendants No. 2 to 4 present through VC.

CORAM : ABHAY AHUJA, J.
DATE : 19th JANUARY, 2026

P.C. :

1. When the matter is called out, Ms. Lodha, learned Counsel appearing for the Plaintiffs submits that as directed by this Court, the originating summons has been served upon the beneficiaries, who are the Defendants in the originating summons and accordingly, Defendant No.1 is present in Court and the Defendants No.2 to 4 are present through video conferencing. Ms. Lodha submits that Defendant No.1 is the son of the Settlor, Defendant No.2 is the wife of Defendant No.1 and Defendants No. 3 and 4 are the sons of Defendant No.1 and 2 and the grandsons of the Settlor and are now the beneficiaries of the LG Family Trust.

2. By this Originating Summons, the Plaintiffs who are present Trustees of the LG Family Trust seek the opinion of this Court on

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 and have raised the following questions:-

> (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 submits that by and under a registered Trust Deed dated 4th September 2018 bearing serial No. BOM-2-14417-2018 (the 'Trust Deed') entered between Mrs. Latika Gaitonde (the 'Settlor') and the Plaintiffs, the Settlor established a Revocable Discretionary Private Family Trust whereby the Plaintiffs were appointed as the Trustees of the LG Family Trust (the "Trust") and by a registered Amendment Deed dated 25th August 2021 bearing Serial No. BBY-5-9621-2021 executed by the Plaintiffs, the schedules to the Trust Deed were amended.

4. Ms. Lodha submits that the Settlor had settled/transferred her assets to the Trust which were duly received and accepted by the

Plaintiffs and the Trust was set up as a revocable trust for the sole benefit of the Settlor during her life and she was entitled to all distributions of income and corpus (if any distributions to be made) to her alone during her lifetime as the primary beneficiary. Thereafter, only upon demise of the primary beneficiary, the secondary beneficiaries are to receive the distributions from the Trust.

5. Ms. Lodha, submits that the Settlor passed away testate on 23rd July 2023 and after the demise of the Settlor, the Defendants who were the secondary beneficiaries at the time of formation of the Trust became aware of the existence of the Trust and were apprised that they had become entitled to receive the distributions from the Trust as per the Schedule I of the Trust Deed.

6. Further drawing the attention of this Court to Clause 20(c) and (d) of the Trust Deed Ms. Lodha submits that although the trust was set up as revocable discretionary trust upon demise of the settlor, the trust would convert into an irrevocable trust and any changes or modification or closure of the trust are to be with the unanimous consent of the beneficiaries. The relevant portion of Clause 20(c) and (d) of the Trust Deed are usefully extracted as under :

> “(c) In case of demise of the Settlor, the Trust shall stand converted into an irrevocable Trust ....
>
> (d) In case of the Trust being converted into an irrevocable Discretionary Trust, any changes or modification or closure of the Trust would be with the unanimous consent of the Beneficiaries.”

7. Ms. Lodha submits that since the settlement of the assets into the Trust Corpus, the Trust has received periodic income in accordance with its investment terms and though the Trust has received income from the date of demise of the Settlor and the Defendants are eligible under the Trust Deed to receive distribution, no distribution has taken place till date due to the Defendants’ residency and tax liability in the United States.

8. Ms. Lodha submits that the latest audited financials of the Trust as on 31st March 2024 reveal that the income and expenditure account of the trust shows an undistributed income of INR 7,72,90,428 and the assets other than real estate if sold at market value would fetch approximately INR 137,79,78,348, however, in view of the tax implications, the Plaintiffs have deliberately abstained from taking any steps that might cause the Defendants to incur heavy tax liabilities in both jurisdictions viz. India as well as USA. It is submitted that under the RBI Master Circular for distributing the income from the Trust to

the Defendants, the Plaintiffs would be required to approach the RBI annually for prior approval for any remittance to Defendants above US $1 Million. It is submitted that this approval is difficult to obtain on a recurring basis, and in the event, such yearly income is not distributed on account of refusal of permission from RBI, the Defendants shall face penalties under the US Tax regime.

9. Ms. Lodha submits that the Defendants had therefore consulted their Certified Public Accountant ("CPA"), licensed to practice and advice on tax matters in the United States of America (USA), on tax implications of non-distribution of income earned in a particular year and the CPA has advised that due to the demise of the Settlor and the conversion of trust into an 'irrevocable trust', the US Tax Law would treat the Trust as a Foreign non-grantor trust as against a Foreign grantor trust during her life. Ms. Lodha submits that the difference between the two is that for the former all the income and corpus is deemed to belong to the beneficiaries whereas in the latter, the income and corpus is deemed to belong to the grantor. Thus, in the latter the tax liability is of the grantor who in the present case would be the Settlor, while in the former the tax liability in India is of the Trust, which becomes taxable in the US in the hands of the beneficiaries once

it is distributed.

10. Ms. Lodha further submits that in the event, under a Foreign Non Grantor Trust any undistributed income is retained by the Trust, it will be, as and when distributed to the beneficiaries taxed to them as if it was deemed to have been distributed to them in the year it was originally earned. In addition, the normal tax on such income and gains, they will be liable for paying interest on the tax which was due on such deemed distribution from the year in which such income arose. In addition to the above, the Internal Revenue Service of USA ("IRS") may impose severe penalties in monetary terms (as high as 300% of the income undistributed). Ms. Lodha submits that this may have the effect of a tax imposition of up to 70% on the income and gains distributed by the Trust in the years later than when they were earned by the Trust.

11. Ms. Lodha submits that additionally under the Article 2(1) of the Articles of Double Tax Avoidance Treaty signed by and between India and the US ("India-US DTAA") even if the taxes in India are higher for certain categories of income, if there are any penalties imposed due to delays on account of different tax years in India and the USA the Defendants shall not be permitted to claim any set off. That under Article 25(1) of the India-US DTAA, the United States of America shall

allow to a resident or citizen of the United States as a credit against the United States tax on income, if the income tax is paid to India by or on behalf of a resident or citizen of the United States of America, but this benefit under India-US DTAA can not be availed by the Defendants as under Section 164 of the Income Tax Act, 1961, the Trust is liable to pay taxes and not its beneficiaries and due to the indeterminate nature of the Trust no part of the income or gains of the Trust shall be deemed to be paid to India on behalf of such citizen or resident of the US as required for enabling the Defendants to claim double taxation relief in the USA in their own tax returns even if the income was of the current year.

12. Ms. Lodha has submitted that the Defendants neither maintain a place of business nor have a permanent residence in India and the Defendants No. 3 and 4 seldom visit the country. Ms. Lodha further submits that the Defendants have no material connections to India, as they are entirely engaged, both personally and professionally, in the United States of America for over 41 years and owing to the tax related difficulties currently faced by the Defendants in the United States due to the Trust, they have taken the position that the Settlor was not adequately informed of the potential difficulties her beneficiaries i.e.

the Defendants might face after her demise when she was advised to settle her assets.

13. Ms. Lodha has submitted that the Plaintiffs by their letter dated 26th May 2025 addressed to the Defendants have recorded their reasons in writing advising the Defendants on closure of the Trust and the Plaintiffs have annexed at Exhibit J1 to J4, the Consent Affidavits dated 24th May 2025 apostilled on 28th May 2025 of the Defendants/Beneficiaries for the closure/ dissolution of the Trust and liquidation of the Trust Corpus to address the resulting tax exposure. It is submitted that following the dissolution the Defendants propose to remit the proceeds abroad in compliance with applicable legal and regulatory provisions.

14. Ms. Lodha submits that in such circumstances the Plaintiffs have approached this court through the present Originating Summons seeking an opinion, advice or direction on the issue as to whether the Defendants under clause 20(d) of the Trust Deed read with Section 78(a) of the Indian Trust Act, 1882 are entitled to dissolve the Trust by affirming consent affidavits.

15. Ms. Lodha submits that if the said question is answered in the affirmative the Plaintiff is also seeking opinion, advice or direction on

whether on receipt of the consent affidavits of the Defendants, the Plaintiffs can dissolve the Trust, liquidate the assets and distribute the corpus amongst the Defendants and whether on closure/dissolution of the trust the amounts so distributed to the Defendants be treated a legacy/inheritance received from the Settlor.

16. Ms. Lodha submits that the Settlor had executed a Will, however, all her assets were dealt with in the Trust Deed and her son and his entire family are already named beneficiaries under the Trust Deed and draws attention of this Court to clause (B) and the Schedule III (2) and (3) of the Trust Deed which enumerates that the object of the Trust is to ensure seamless inter generational transfer of the trust corpus and income among the beneficiaries who are family members of the Settlor specifically mentioned in Schedule I of the Trust Deed and to ensure effective succession planning mechanism and inter generational transfer of Trust Corpus and income and submits that the distributions under the Trust Deed is their inheritance /legacy from the Settlor and therefore upon dissolution of the Trust, the amount/assets distributed to the Defendants be treated as legacy/inheritance received from the Settlor.

17. Ms. Lodha submits that the Plaintiffs viz. the Trustees are seeking a determination by this Court on questions pertaining to the administration of the Trust, in the interest of justice, equity and conscience to interpret the provisions of the Trust Deed in consonance with the Indian Trusts Act, 1882 as according to them there is a conflict between Clause 20(c) and Clause 20(d) of the Trust Deed.

18. Ms. Lodha submits that accordingly, this Originating Summons has been filed under Rule 238 of the Bombay High Court (Original Side Rules) 1980 to determine the question pertaining to the administration of the trust and to interpret the provisions of the trust deed in accordance with the Indian Trusts Act, 1882.

19. I have heard Ms. Samridhi Lodha, learned Counsel for the Plaintiffs and with her able assistance, I have considered the matter.

20. Under Rule 238 of the Bombay High Court (Original Side Rules) 1980 it is provided as to who may apply for the issue of originating summons and in respect of what matters. It has *inter-alia* been provided that the Trustees under any deed or instrument of trust or any person claiming to be interested as beneficiary under the trusts may apply for the issue of an originating summons before the Judge in Chambers for such relief of the nature or a kind as the circumstances of

the case may require for the determination of questions or matters including the determination of any question arising in the administration of the estate or trust. Rule 238 of the Bombay High Court (Original Side) Rules, 1980 is usefully quoted as under:

> *"238. Who may apply for the issue of originating summons and in respect of what matters. - The executors or administrators of a deceased person or any of them and the trustees under any deed or instrument or any of them, and any person claiming to be interested in the relief sought as creditor, devisee, legatee, heir or legal representative, or as beneficiary under the trusts of any deed or instrument, or as claiming by assignment or otherwise under any such creditor or other person as aforesaid, may apply for the issue of an Originating Summons returnable before the Judge in Chambers for such relief of the nature or kind following as may by summons be specified and circumstances of the case may require (that is to say), the determination, without an administration of the estate or trust, of any of the following questions or matters. :-*
>
> *(a) any question affecting the rights or interest of the person claiming to be creditor, devisee, legatee, heir or legal representative or beneficiary ;*
>
> *(b) the ascertainment of any class of creditors, devisees, legatees, heirs, legal representatives, beneficiaries or others;*
>
> *(c) the furnishing of any particular accounts by the executors, administrators or trustees and the vouching (when necessary) of such accounts;*
>
> *(d) the payment into Court of any moneys in the hands of the executors, administrators or trustees;*
>
> *(e) directing the executors, administrators or trustees to do or abstain from doing any particular act in their character as*

> *such executors, administrators or trustees;*
>
> *(f) the approval of any sale, purchase, compromise or other transaction;*
>
> *(g) <u>the determination of any question arising in the administration of the estate or trust</u>."*
>
> (emphasis supplied)

21. The Originating Summons, as noted above, has been taken out by the Plaintiffs who are Trustees of the Trust for determination of questions 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 as to whether the Defendants under Clause 20(d) of the Trust Deed read with Section 78(a) of the Indian Trusts Act,1882 (the "Trusts Act") are entitled to dissolve the Trust by affirming consent affidavits. If answered in the affirmative, 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. 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.

22. As noted above, the Settlor had entered into the Trust Deed and had decided to establish a private trust being the LG Family Trust with

the main objective of benefiting the Beneficiaries and other objectives as detailed in Schedule III to the Trust Deed. The Beneficiaries as mentioned in Schedule I in Part I clause 1.6 mentions the Settlor as the Primary Beneficiary and during the lifetime of the Primary Beneficiary, distributions were to be made to the Primary Beneficiary. The Secondary Beneficiaries including the Defendants No. 1 to 4 would receive distributions from the Trust only upon the demise of the Primary Beneficiary. The Settlor has passed away on away testate on 23rd July 2023 and after the demise of the Settlor, the Defendants who are the secondary beneficiaries as per the Schedule I of the Trust Deed became aware of the existence of the Trust and were apprised that they had become entitled to receive the distributions from the Trust as per the Schedule I of the Trust Deed.

23. By communication dated 26th May, 2025, from the Trustees to the Defendants-Beneficiaries, the Trustees have informed the Defendants that after the demise of the Settlor Mrs. Latika Gaitonde, the Beneficiaries are entitled to the assets and corpus of the LG Family Trust as beneficiaries under the Trust Deed. That after discussions with the beneficiaries, it has been brought to their attention that the Settlor was not adequately informed of the potential difficulties her

beneficiaries might face after her demise, when she was advised to settle her assets into a Trust. That on consultation with the Chartered Public Accountant, the beneficiaries were apprised that on continuation of the Trust, the beneficiaries would be burdened with heavy taxes in the United States and that to address the resulting tax exposure, the beneficiaries wish to dissolve the Trust and liquidate the Trust corpus following which the beneficiaries are desirous of remitting the proceeds abroad in compliance with applicable legal and regulatory provisions. The Trustees have stated that under the Trust Deed, as per Clause 7(f), on the demise of the Settlor, the Trustees are entitled to take all decisions of the Trust and under Clause 11(a) of the Trust Deed, the Trustees shall not be under any obligation to carry out any direction from the Settlor, which is impracticable, illegal or manifestly injurious to the beneficiaries. That since in the present scenario, continuing the Trust is impracticable and manifestly injurious to the beneficiaries and, therefore, the Trustees have stated that it is necessary that the Trust be dissolved and all the assets of the Trust be liquidated and the Trust corpus, amounts be remitted to the beneficiaries' respective NRO Accounts (post payment of applicable taxes and expenses in India).

24. The Plaintiffs viz. the Trustees are seeking in the interest of justice, equity and conscience the determination by this Court on questions pertaining to the administration of the Trust to interpret the provisions of the Trust Deed in consonance with the Indian Trusts Act, 1882 as according to them there is a conflict between Clause 20(c) and Clause 20(d) of the Trust Deed.

25. I have perused the LG Family Trust Deed with the assistance of Ms. Lodha and for the sake of convenience, Clause 6(a), 7(f), 11(a), and 2(a) to (d) are usefully quoted as under:-

> "6. BENEFICIARIES OF THE TRUST
>
> (a) The Beneficiaries shall mean and include the persons or class or classes of person(s) specified in Schedule I in this Deed, whether in existence at the time of this Deed's execution or who come into existence during any later period of the Trust together with any persons or class or classes of person(s) as decided by the Settlor during her lifetime and included under this Deed. The distributions to the Beneficiaries shall be made in the manner set out in Schedule I to this Deed or as may be decided by the Settlor during her lifetime by way of written instructions issued to the Trustees, provided, however, that notwithstanding anything to the contrary, distributions to the Beneficiaries shall be made only to the extent of availability of Trust Funds.
>
> 7. RESERVATION OF RIGHTS OF SETTLOR
>
> (a)….
>
> ….
>
> (f) In the event of the demise of the Settlor or any relinquishment of all powers by the Settlor or in the event the Settlor becomes incapacitated and the same is confirmed to

the satisfaction of the Trustees, the Trustees shall take all decisions pertaining to the Trust.

11. DECISIONS OF THE TRUST AND THE MANNER OF EXERCISE OF POWER BY THE SETTLOR.

(a) All instructions/directions given by the Settlor pursuant to the powers granted to her under this Deed shall be exercised in a fiduciary capacity for the exclusive interest of the Beneficiaries and the Trustees shall not be under any obligation to carry out any direction from the Settlor which is impracticable, illegal or manifestly injurious to the Beneficiaries, the reasons for such conclusion to be recorded in writing by such Trustee or Trustees and communicated to the Beneficiaries.

20. TERM OF THE TRUST AND DISSOLUTION.

(a) The term of the Trust shall mean the period commencing from the date of this Deed and ending on the Date of Dissolution (as hereinafter defined) ("Term of the Trust").

(b) the Trust is presently being set up as a revocable discretionary Trust and shall be terminated / dissolved at any such time as may be decided by the Settlor.

(c) In case of demise of the Settlor, the Trust shall stand converted into an irrevocable Trust and will be terminated upon:-

i) Lapse of 30 years from the date of the demise of Mr. Girish Gaitonde.

or

ii) At a time after the demise of Mr. Girish Gaitonde as may be unanimously decided by Mr. Gaurav and Mr. Omkar

Whichever is earlier ("Date of Dissolution")

d) In case of the Trust being converted into an Irrevocable Discretionary Trust any changes or modification or closure of the Trust would be with the unanimous consent of the Beneficiaries."

26. As can be seen, Mrs. Latika Gaitonde was a Settlor of the Trust and that the Plaintiffs were appointed as Trustees of the Trust, which was set up as a revocable Trust for the sole benefit of the Settlor during her life and she was entitled to all distributions of income and corpus to her alone during her lifetime as the primary beneficiary. Thereafter, only upon demise of the primary beneficiary, the secondary beneficiaries are to receive the distributions from the Trust.

27. Under Clause 7(f) of the Trust Deed in the event of demise of the Settlor the Trustees shall take all decisions pertaining to the Trust. As can be seen from Clause 11(a) of the Trust Deed that the Trustees shall not be under any obligation to carry out any direction from the Settlor which is impracticable, illegal or manifestly injurious to the beneficiaries and in the present scenario as the continuation of the Trust is impracticable and manifestly injurious to the beneficiaries, the beneficiaries have found it necessary that the Trust be dissolved and all the assets of the Trust are liquidated and the trust corpus is remitted to each of the respective NRO Accounts of the Beneficiaries. Accordingly, it appears that letter dated 26th May, 2025 has been addressed by the Trustees / Plaintiffs to the beneficiaries / Defendants advising closure of the Trust.

28. Clause 20 of the Trust Deed pertains to the term of the trust and its dissolution. As per Clause 20(a) the term of the Trust shall mean the period commencing from the date of the Deed and ending on the Date of Dissolution. Clause 20(c) of the Trust Deed provides that in case of demise of the Settlor, the Trust shall stand converted into an irrevocable Trust. Clause 20(d) of the Trust Deed provides that in case the Trust gets converted into an irrevocable discretionary trust, any changes or modification or closure of the Trust would be with the unanimous consent of the Beneficiaries. In my view, therefore, there is no conflict between Clause 20(c) and Clause 20(d) of the Trust Deed.

29. Further, Section 78 of the Trusts Act expressly provides that a trust may be extinguished by the consent of all the beneficiaries provided the beneficiaries are competent to contract and have consented to the same. Section 78 of the Trusts Act is reproduced as under:

> *"78. Revocation of trust.—A trust created by will may be revoked at the pleasure of the testator.*
>
> *A trust otherwise created can be revoked only—*
>
> *(a) where all the beneficiaries are competent to contract—by their consent;*
>
> *(b) where the trust has been declared by a non-testamentary instrument or by word of mouth—in exercise of a power of revocation expressly reserved to the author of the trust; or*

> *(c) where the trust is for the payment of the debts of the author of the trust, and has not been communicated to the creditors—at the pleasure of the author of the trust."*

30. It is observed that the Trust Deed does not contain any clause expressly prohibiting or barring the premature dissolution of the trust. There is no intention in the Trust Deed to exclude or override the operation of Section 78 of the Trusts Act. In fact Clause 20(c) of the Trust Deed provides that in case of demise of the Settlor, the Trust shall stand converted into an irrevocable Trust and Clause 20(d) of the Trust Deed itself provides for that in case of the Trust being converted into an irrevocable discretionary trust, any changes or modification or closure of the Trust would be with the unanimous consent of the Beneficiaries. In the absence of any express or implied bar to premature dissolution, the statutory mandate under Section 78 of the Trusts Act operates with full force and the Trust must give way to the collective will of the beneficiaries. It is, therefore, clear that as long as all the Beneficiaries have consented to the revocation/dissolution of the Trust the Trust can be dissolved.

31. The beneficiaries herein viz. Defendants No. 1 to 4 have signed consent affidavit dated 24th May, 2025 apostilled on 28th May, 2025 for the dissolution of the Trust, since under Clause 20(d) of the Trust deed

as well as Section 78(a) of the Indian Trust Act, 1882 the consent of the Beneficiaries is required for closure and dissolution of the Trust. Since the communication from LG Family Trust was dated 26th May, 2025, whereas the consent affidavits by the Beneficiaries were dated 24th May, 2025, this Court on 3rd December, 2025 had under Rule 240 of the Bombay High Court (Original Side) Rules, 1980 directed service of the Originating Summons upon the Beneficiaries, who are the Defendants in the Originating Summons. Pursuant to the said service, it is submitted that the Defendant No.1 viz. Mr. Girish Gaitonde is present in person in Court and the Defendants No. 2 to 4 viz. Mrs. Vibhavari Gaitonde, Mr. Gaurav Gaitonde and Mr. Neil Omkar Gaitonde alias Omkar Girish Gaitonde are respectively present through video conferencing and all of them have conveyed their consent to dissolve the Trust.

32. In the above circumstances, the Trust is liable to be dissolved by consent in accordance with settled principles of Trust Law.

33. Although the Beneficiaries/Defendants have orally consented to the dissolution of the trust, however, I deem it appropriate that fresh consent affidavits be filed in a time bound manner subject to which the Trust be dissolved.

34. In view of the above discussion, I hold that the Beneficiaries/Defendants are entitled to dissolve the Trust subject to the provisions of the Indian Trusts Act, 1882 and to the other applicable laws and regulations by apostilling and filing fresh consent affidavits within a period of four weeks from the date of uploading of the order. Accordingly, the Question (a) of the Originating summons is answered in the affirmative.

35. As far as the Question (b) is concerned the same need not be answered as the Plaintiffs/Trustees are required to distribute the the assets and income thereof as far as practicable as per the terms stipulated under the LG Family Trust Deed among the beneficiaries equally.

36. As far as question (c) is concerned, no clarification is required as it has been pointed out that the object of the trust is to ensure seamless inter generational transfer of the trust corpus and income among the beneficiaries, who are the family members of the Settlor as mentioned in Schedule I of the Trust Deed and to ensure effective succession planning mechanism and inter generational transfer of trust corpus and

income. The said provisions are self explanatory and do not beg or involve any clarification or interpretation of any question affecting the rights or interest of the person claiming to be beneficiary or determination of any question arising in the administration of estate or trust under the LG Family Trust Deed, questions of taxation either under Indian Law or US law or under India-US DTAA, are best left to the concerned taxation authorities.

37. It is clarified that this Court has not commented on the taxability of the transactions, whether in India or in the USA or under the DTAA between India and USA, as that is not and cannot be the scope of Originating Summons.

38. Ergo, exercising my powers as a Chamber Judge under Order 238 of the Bombay High Court (Original Side) Rules, 1980 and in particular Rule 238(a) and (g) for determination of a question arising in the administration of the Plaintiff Trust, considering the above discussion, and being of the opinion that the matter is fit to be dealt with on an Originating Summons, the question (a) as raised is answered in the affirmative and questions (b) and (c) are answered as

above.

39. The Originating Summons is accordingly decreed as above. Drawn up decree is dispensed with. No costs.

(ABHAY AHUJA, J.)

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YOGESH
GADGIL

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