

IN THE BOMBAY CITY CIVIL COURT AT MUMBAI.

**ORDER BELOW EXHIBIT-45A
IN
S.C. SUIT NO. 406 OF 2014**

Kurla Malayalee Samajam Trust

...Plaintiff

Vs.

**M/s. Rajesh and Association &
Ors.**

... Defendants

Appearance:

Learned Advocate Mr. Wilson Cherian for the plaintiff.

Learned advocate Bilal Quresh h/f. Adv. Zahid Ansari for defendant No.7

CORAM : HHJ V. M. Pathade

(C.R.NO.62)

Date : 26th October, 2023

ORDER BELOW EXHIBIT-45A

This is an application filed by the plaintiff raising objection to the Vakalatnama Exh.45 for and on behalf of defendant No.7 i.e. M/s. S. Rajesh and Associates, a registered partnership firm and which is said to be signed by all the partners of said defendant No.7. It is the contention of the plaintiff that by an order dated 08.11.2012 passed by this Court in Suit No.6212/1998 directed the dissolution of the firm namely, M/s. S. Rajesh and Associates which came into existence vide Partnership Deed dated 02.10.1986 and the defendant No.2 in this Suit by name Mr. Rajesh Raghvendra Rao has admitted his partnership with late V. Subramaniam. The said order dated 08.11.2012 was accepted by

defendant No.2 Rajesh (who is now deceased) had not challenged the said findings. Defendant No.7 came to be registered at the instance of defendant No.2 along with defendant No.8 by creating the bogus Partnership Deed on 02.10.1985, and registered the same on 10.06.1994 with the Registrar of Firms only to defeat the rights of late Subramaniam.

2. It is further contended that after demise of defendant No.2 Rajesh, his legal heirs tried to enter in this proceeding. On 17.09.2022, Advocate Bilal Qureshi filed Vakalatnam for Mrs. Vaishali Rajesh Rao as a partner of M/s. S. Rajesh and Associates. The plaintiff has strong objection to the said Vakalatnama filed by Mrs. Vaishali Rajesh Rao, on certain grounds stipulated in the application. It is thus prayed that the Vakalatnama filed by said Mrs. Vaishali Rajesh Rao be rejected and suit to proceed against defendant No.7 according to law.

3. Defendant No.7 vide its reply Exh.47 opposed the application stating that it is not maintainable for want of locus standi since the vakalatnama purportedly in favour of Advocate Mr. Wilson Cherian has not been filed on record. It is further contended that the original defendant No.2 Rajesh Rao was one of the founder partners of defendant No.7 and during his life time he had filed vakalatnama on behalf of defendant No.7. However, after his demise, the objection having been raised by the plaintiff to said Vakalatnama, this court had directed/suggested to file fresh Vakalatnama for defendant No.7, signed by its existing partners and accordingly the vakalatnama bearing the signatures of Smt. Vaishali Rajesh Rao, Shri Rambhau Kashiram Sakpal, Smt. Geeta Ram Sakpal, Shri Sandesh Sakharam Chavan and Shri

Raghuveer R. Putran, as the partners of defendant No.7 came to be filed. However, subsequent to the filing of the said Vakalatnama said Smt. Vaishali Rajesh Rao, expired on 21.11.2022. In all these circumstances, defendant No.7 seeks to reject the objection.

4. After hearing the learned Counsel appearing for the contesting parties and after considering the matter, I do not find substance in the objection. Defendant No.7 through its partner having engaged Advocate Ansari, to represent it in the present suit and subsequent to the filing of the said Vakalatnam Exh.45, Smt. Vaishali Rao having been expired, the said Vakalatnama to the extent of the said deceased partner Smt. Vaishali would come to an end and the other partners who are willing to continue with the said Vakalatnama to represent defendant No.7 in the suit cannot be said to be unlawful or invalid. In the result, the objection Exh.45A would fail. Hence, I proceed to pass following order:-

ORDER

1. Application Exh.45-A thereby raising objection to the Vakalatnama (Exh.45) filed on record on behalf of defendant No.7, stands rejected.
2. No order as to costs.

Date :26.10.2023

Dictated on : 26/10/2023.

Transcribed on : 26/10/2023.

Signed on : 26/10/2023.

(V. M. Pathade)
Judge, C.R.No.62,
City Civil Court,
Mumbai.

CERTIFIED TO BE TRUE AND CORRECT COPY OF THE ORIGINAL SIGNED JUDGMENT/ORDER”

27.10.2023 at 10.30 a.m.
UPLOAD DATE AND TIME

Mr. S.S. Bathe
NAME OF STENOGRAPHER

Name of the Judge(with CR No.)	HHJ SHRI. V.M. PATHADE (C.R.No.62)
Date of pronouncement of Order	26/10/2023
Order signed by P.O. on	26/10/2023
Order uploaded on	27/10/2023