

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

SUIT NO.3102 OF 1986

Kabir Real Estate Pvt. Ltd.Plaintiff
versus
M/s. Kabir Woollen Mills and Ors.Defendants

Mr. Sumeet Raghani i/by M/s. PDS Legal, for Plaintiff in Suit No.3102 of 1986.

Mr. Mohan i/by M/s. Thakore Jariwala, for Defendant No.7 in Suit No.3102 of 1986.

Mr. Mayur Khandekar i/by M/s. Kanga and Co., for Defendant Nos.1, 3, 4 and 5.

Ms. Shrama Doshi i/by M/s. Wadia Ghandy and Co., for Plaintiff in Suit No.2807 of 1990 and for Defendant No.6 in Suit No.3102 of 1986.

CORAM: S.J.KATHAWALLA, J.

DATE: 14th FEBRUARY 2014

PC. :

1. Heard the learned Advocates for the parties and by consent, the following issues are framed in the above Suit :

(i) Whether the plaintiffs prove that the Suit Agreements dated 18th February, 1982 and 25th February 1982 are valid, subsisting and binding on the Defendants and that they are entitled to a declaration to that effect ?

(ii) Whether the Plaintiffs prove that they are ready and willing to perform their obligations under the suit Agreements dated 18th February

1982 and 25th February 1982 ?

(iii) Whether the Plaintiffs are entitled to specific performance of the Suit Agreements dated 18th February 1982 and 25th February 1982 ?

(iv) Whether the Plaintiffs prove that they are entitled to a decree against Defendant Nos.6 and 7 to join Defendant Nos.1 to 5 in the transfer, convey and any other suit property in terms of prayer clause (b) ?

(v) Is the issue No.3 is answered in the negative, then :-

(a) Whether the Plaintiffs prove that they are entitled to compensation in the sum of Rs.1,82,70,748.90 with interest @ 18% p.a. from the date of filing suit till payment and/or realization ?

(b) Whether the Plaintiffs prove that Defendant Nos.1 to 5 are liable to refund/pay the sum of Rs.25,97,696/- as prayed for by them in the Plaint, together with interest on Rs.13,50,000/- @ 18% p.a. from the date of the suit till payment and/or realization ?

(c) Whether the Plaintiffs prove that the suit property described in the Schedule annexed as Exhibit-A to the Plaint is duly and validly charged for the due repayment of amounts claimed by them from the Defendant nos.1 to 5 as stated herein above ?

(d) Whether the Plaintiffs are entitled to enforce the charge referred to in (c) above ?

(vi) Whether the Suit and reliefs claimed therein are barred by the laws of limitation ?

(vii) What reliefs and order ?

2. The Plaintiffs to file their Affidavit of Evidence, Affidavit of Documents along with Compilation of Documents on or before 27-02-2014. The Defendants to also file their Affidavit of Documents and Compilation of Documents on or before 27-02-2014. Stand over to 28-02-2014 for 'Directions'.

(S.J.KATHAWALLA, J.)