

Atul

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
SUIT NO. 3102 OF 1986

Kabir Real Estate Pvt Ltd ...Plaintiff
Versus
Kabir Woollen Mills & Ors ...Defendants

SUIT NO. 2807 OF 1990

Sunil Jugalkishore Gupta (As the legal heirs and ...Plaintiff
representatives of Mrs Santosh Jugalkishore
Gupta)
Versus
Kabir Woollen Mills & Ors ...Defendants

Mr Bhavik Manek, *with Tushar Kadam & Shivani Vora, i/b MDP & Partners, for the Plaintiff in S/2807/1990 & for Defendant No. 1A in S/3102/1986.*

Mr Hemant Mehta, *i/b Mehta & Co., for the Plaintiff in S/3102/1986 & for Defendant No. 7 in S/2807/1990.*

Mr Medhavin Bhatt, *i/b MV Law Partners, for Defendant No. 6B in S/3102/1986 & for Defendant No. 8 in S/2807/1990.*

Mr Rajendra Jain, *i/b Thakore Jarimala & Associates, for Defendant No. 7 in S/3102/1986 & for Defendant No. 6 in S/2807/1990.*

CORAM: G.S. PATEL, J
DATED: 2nd May 2018

PC:-

1. It seems that after issues were framed, documents marked and a further examination-in-chief conducted in Court on 18th July

2017, Ms Sara Shaikh, an Advocate of this Court was appointed a Commissioner to record the evidence.

2. The Plaintiff, through oversight and inadvertence, omitted to inform the learned Commissioner of her appointment and it seems that absolutely nothing has progressed in the matter for the last year.

3. One of the Defendants in Suit No. 3102 of 1986 is the Plaintiff in Suit No. 2807 of 1990. Although the order of 18th July 2017 was common to both suits, the Plaintiff's documents (i.e. those of Sunil Jugalkishore Gupta, Defendant No. 6A in Suit No. 3102 of 1986) were not marked on that day. Issues have been framed separately in the two suits. The evidence in the two suits cannot be common. Both suits are for specific performance of agreements of sale of the same property but under different agreements and the suits are by different Plaintiff. Evidently the evidence cannot be the same.

4. Consequently the trial in Suit No. 3102 of 2006 will continue, beginning with the recording of cross-examination of the Plaintiff's first witness before the learned Commissioner, Ms Sara Shaikh.

5. Time for the Commissioner to complete the recording of cross-examination of the Plaintiff's witness is extended till 31st August 2018. This extended period is allowed because the Plaintiff's witness is undergoing dialysis and cannot attend to the trial on day-to-day basis.

6. List Suit No. 2807 of 1990 for marking the Plaintiff's documents on 18th June 2018.

(G. S. PATEL, J)