

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

SUIT NO. 1948 OF 1983

SOCIEDADE DE FOMENTO INDUS PVT. LTD.)...PLAINTIFF

V/s.

TULSIDAS V. PATEL PVT. LTD. AND OTHERS)...DEFENDANTS

WITH

INTERIM APPLICATION NO. 4498 OF 20222

IN

SUIT NO. 1948 OF 1983

Mr.E.H.Kotwal a/w. Ms.Gaurangi Pujara, Mr.Oduvil Mohandas,
Mr.J.P.Kapadia i/by Little & Co., Advocate for the Plaintiff.

Mr.Rahul Soman a/w. Ms.Namrata Vashist and Ms.Khusboo Chughani
i/by Markand Gandhi & Co., Advocate for the Defendants no.1 to 7.

Mr.Kunal Vikamsey, Plaintiff's Witness present in Court.

CORAM : ABHAY AHUJA, J.

DATE : 11th FEBRUARY 2026

PC. :

1. Pursuant to order dated 13th January 2026, today when the matter is called out, Mr.Kotwal, learned Counsel, appears for the Plaintiff and submits that the Plaintiff's witness Mr.Kunal Vikamsey viz. the Valuer is present in Court along with Additional Affidavit in lieu of examination-in-chief dated 4th December 2025 as well as the Valuation report of the same date and that the Statement of admission and denial

has also just been received from Mr.Soman, learned Counsel appearing for the Defendants no.1 to 7, and that this Court may proceed to mark the said documents.

2. Mr.Soman, learned Counsel appearing for the Defendants no.1 to 7 tenders across the bar Statement of admission and denial on behalf of the said Defendants, which indicates that the existence of the Valuation report is admitted, however, the contents are denied.

3. Accordingly, Mr.Kunal Vikamsey, Plaintiff's witness no.3 is requested to step into the box and is administered oath by the learned Court Associate.

PW-3 :

Name : Kunal Kantilal Vikamsey
Age : 50 years
Occupation : Government Registered Valuer
Address : 412, Maker Chambers No.5,
Plot No.221, Nariman Point,
Mumbai – 400 021.

Examination-in-chief of Mr.Kunal Kantilal Vikamsey (PW-3) on S.A.:

(Witness is shown Additional Affidavit in lieu of examination-in-chief dated 4th December 2025 under Order XVIII, Rule 4 of the Code of Civil Procedure, 1908 and Valuation report dated 4th December 2025)

This is my Additional Affidavit. I have affirmed and verified this affidavit by signing at the foot of this Additional Affidavit. I identify my signature on this Additional Affidavit. The contents of this Additional Affidavit are true and correct to my knowledge and belief.

I am producing the original Valuation Report dated 4th December 2025. I have deposed to the said document in my Additional Affidavit in lieu of examination-in-chief.

The witness has deposed to the truth and contents of the said Additional Affidavit and the Valuation report.

There are no questions in oral examination-in-chief.

4. Accordingly the Additional Affidavit in lieu of examination-in-chief of Mr.Kunal Vikamsey, dated 4th December 2025, is marked as **Exhibit PW-3/1**. Since the existence of the Valuation report has been admitted and the contents denied, the Valuation report is marked as **Exhibit PW-3/2** subject to proving the correctness of the contents.

5. The Plaintiff's witness no.3 to step out of the box and is discharged.

6. The marking of documents of Plaintiff's witness no.3 having been completed, the learned Counsel submit that the Commissioner already

appointed in the matter may be continued to record the cross-examination of the Plaintiff's witness no.3.

7. The learned Counsel submit that Advocate Mr.Kirti Munshi was earlier the Commissioner. However, since Mr.Kirti Munshi has been designated as Senior Counsel, this Court is of the view that it may not be appropriate to continue him for the services as Commissioner. This Court has accordingly suggested the name of Mr.Abhishek Karnik who is a Counsel of this Court. The learned Counsel have no objection if Mr.Abhishek Karnik is appointed as Commissioner. Accordingly, Mr.Abhishek Karnik, learned Counsel of this Court, is appointed as Commissioner to record the cross-examination of the Plaintiff's witness no.3 under the following directions :

(a) The Commissioner is at liberty to exercise discretion under Order XVII Rule 4(4) of the Code of Civil Procedure, 1908, to note the demeanour of the witnesses where necessary.

(b) All cross-examination shall be conducted strictly in question and answer form.

(c) The Commissioner will also be at liberty to direct that the whole or any part of the cross-examination should be video recorded for later reference of the Court. Should that be done, the original audio visual recording will be submitted along with the Commissioner's Report to the Registry.

(d) Liberty to the parties as also to the Commissioner to apply in case of difficulty.

(e) All re-examination will be conducted only in court.

(f) Costs of the commission shall be borne equally by the parties.

(g) Parties shall also pay costs of Rs.500/- per hearing to the Court Clerk who attends the commission with Court Papers. This is required since these clerks attend the commission in addition to their regular duties and outside their normal working hours.

(h) The Commissioner is not to permit any applications for adjournment on dates previously fixed, except where absolutely unavoidable. Counsel's inconvenience or unavailability does not constitute such unavoidability.

8. The contact details of Mr.Abhishek Karnik are as under :

Name : Abhishek Karnik, Advocate
Address : Chambers of Dr.Saraf, Senior Advocate,
302, Oval House, British Hotel Lane,
Lane Opposite Commerce House,
Nagindas Master Road, Fort,
Mumbai – 400023
Mobile No. : 9930352706
Email Id : adv.amkarnik@gmail.com

9. Parties and Counsel to co-operate with the learned Commissioner and to equally bear his costs, charges and expenses.

10. At the joint request of the learned Counsel appearing in the matter, list on **15th April 2026**.

11. Let the learned Commissioner submit his report by **15th April 2026**.

(ABHAY AHUJA, J.)