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

**SUIT NO. 3469 OF 1992**

Union of India  
through Deputy Salt Commissioner ...Plaintiff  
Vs.  
M/s. Byramjee Jeejeebhoy & Ors. ...Defendants

Mr. S.R. Rajguru a/w. Mr. A.R. Verma for UOI  
AGP for Plaintiff  
Ms. Nisha Shah a/w. Ms. Divya Jain for Defendant No.1.  
Mr. Karl Shroff a/w. Mr. Malcomn Siganpuria i/b.  
M/s. Hariani & Co., for Defendant No.2

**CORAM : MRS. ROSHAN DALVI, J.  
DATED :14TH JANUARY, 2015**

**P.C. :**

1. The plaintiff has filed the affidavit of evidence and the affidavit of documents along with the list of documents. The affidavit of examination-in-chief is accepted on record under the provisions of Order 18 Rule 4 of the CPC.
2. The admissibility of the documents is considered as follows:
  1. By consent of all the defendants the Kowl dated 2<sup>nd</sup> October, 1830 is marked **Exhibit-A**.
  2. By consent of all the defendants conveyance deed dated 22<sup>nd</sup> September, 1847 is marked **Exhibit-B**.

3. By consent of all the defendants copy of the gazettier from page 33 to 378 and 544 to 550 of Volume -VIII, Part – II, Thane printed in 1882 is marked **Exhibit-C**.
4. By consent of defendant No.1 the plan dated 4<sup>th</sup> October, 1927 is marked **Exhibit-D**.
5. Photocopy of Akar Phod Patra of Hissa No. 4 Konkan is marked **Exhibit-E** subject to the production of the certified copy thereof.
6. The translation of the extract from the Sud Book is marked “**X**” for identification. It shall be identified upon producing the certified copy of the Sud Book which is in Modi script.
7. Certified copy of the property register card of City Survey No.1071 of CTS, Pahadi, Goregaon Taluka, Borivali District, Mumbai is marked **Exhibit-F** as it is a certified copy of the public document carrying a presumption of its correctness.
8. The Jamin Kharda of 1966 of Goregaon issued by the Salt Commissioner along with the annexures thereto being the note sheets, the letter dated 21<sup>st</sup> October, 1966 and the copy of letter dated 4<sup>th</sup> May, 1967 are public records and are

accordingly marked **Exhibit-G (colly)**.

9. The licence issued by the Deputy Salt Commissioner order bearing the stamp and seal of the said office is marked **Exhibit-H**.
10. No document is marked at Exhibit-I.
11. Photocopy of GR No.4269 of 1859 dated 28<sup>th</sup> October, 1859 is marked **Exhibit-J** subject to the production of the certified copy of the said document.
12. Photocopy of the rules regarding disposal of the application for permission to open new salt works is marked **Exhibit-K** subject to production of the gazette extract.
13. Extracts of the Land Revenue Code Rules, 1905 and 1921 are subordinate legislation and hence are not marked. The plaintiff shall be entitled to produce the rule book to be considered in the suit.
14. By consent of defendant No.2 photocopy of the judgment dated 23<sup>rd</sup> February, 1961 is marked **Exhibit-L**.
15. Reported judgment is not marked as it is never marked.

16. By consent of defendant No.2 photocopy of the Mamlatdar's order dated 16<sup>th</sup> April, 1964 is marked **Exhibit-M**.
17. By consent of defendant No.2 photocopy of the order dated 25<sup>th</sup> April 1977 is marked **Exhibit-N**.
18. By consent of defendant No.2 photo copy of the running translation of the letter of City Survey Officer dated 30<sup>th</sup> April, 1977 is marked “**X-1**” for identification.
19. By consent of defendant No.2 appellate order dated 29<sup>th</sup> March, 1978 is marked **Exhibit-O**.
20. By consent of defendant No.2 photocopy of the order in Appeal No. 29 of 1978 dated 28<sup>th</sup> October, 1979 is marked **Exhibit-P**.
21. By consent of defendant No.2 photocopy of order dated 4<sup>th</sup> March, 1982 is marked **Exhibit-Q**.
22. By consent of defendant No.2 photocopy of order dated 26<sup>th</sup> June, 1984 is marked **Exhibit-R**.
23. By consent of defendant No.2 photocopy of order dated 1<sup>st</sup> July, 1985 is marked **Exhibit-S**.

24. By consent of defendant No.2 copy of the order / oral judgment dated 11<sup>th</sup> January, 1991 is marked **Exhibit-T**.
25. Certified copy of the judgment dated 22<sup>nd</sup> March, 1993 is marked **Exhibit-U**.
3. Ms. Bharati Thaker is appointed Commissioner to record the evidence in this Suit.
4. Parties shall appear before the Commissioner initially on 23<sup>rd</sup> January, 2015 at 5.00 p.m and thereafter as fixed by the Commissioner. The Court Commissioner shall record the evidence preferably day-to-day.
5. All parties shall bear the costs and expenses of the Commission equally in three parts.
6. After the cross examination of the plaintiff's witness is completed the plaintiff shall be entitled to file the affidavit of examination-in-chief.
7. Parties shall place the suit on board for considering the admissibility of the documents of the Defendants at appropriate time.

(ROSHAN DALVI, J.)