

Shephali

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
SUIT NO. 466 OF 1991**

Chitrajan D Shah ...Plaintiff
Versus
Bombay Housing & Area Development Board & ...Defendants
Anr

Mr Rohaan Cama, *with Mr Lalit Katariya, Ms Benedicta Lobo & Ms
Nimisha Ghetla, i/b Katariya & Associates, for the Plaintiff.*
Mr PG Lad, *with Aparna Muralidharan, for the Defendants.*

CORAM: G.S. PATEL, J
DATED: 5th April 2019

PC:-

1. Mr Lad for both Defendants says that three documents are to be marked in evidence. These are, respectively, a copy of a letter dated 6th May 1990 from Growth Techno Projects Limited, a copy of another letter of 29th May 1990 also from Growth Techno Projects and a true copy of a resolution dated 24th April 1990.
2. The first two documents are admitted. As regards the third document, its existence is admitted and it will therefore be marked subject to proof of correctness of contents.

3. The Defendants' witness Mr Kamlakar Surwade is present. He has affirmed an Affidavit dated 22nd March 2019.

4. The three documents submitted by Defendants are taken on record and marked in evidence as **Exhibits "D1", "D2" and "D3", respectively.**

5. By consent, Ms Surbhi Agrawal is appointed as a Commissioner and is requested to record the cross-examination of the Defendants' first witness.

- (a) The Commissioner is at liberty to exercise discretion under Order XVIII 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.
6. List the matter on 24th June 2019 for a status report including as to progress before the Commissioner.

(G. S. PATEL, J)