

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

**SUIT NO.3407 OF 1995**

Prithviraj H. Bajaj and Anr. .. Plaintiffs

Vs.

L.I.C. and Ors. .. Defendants

Mr. Rahul Sardar, with Mr. Mantul Bajpai, i/by Crawford Bayley & Co., for the Plaintiffs.

Ms. Snehal Paranjape, with Mr. J.P. Kapadia, Mr. O. Mohandas and Ms. Maitri Yadav, i/by Little & Co., for Defendant No.1-LIC.

Mr. P.G. Lad, with Ms. Sayli Apte, Ms. Prerana Dhoke and Ms. Shreya Shah, for Defendant No.2-MHADA.

Ms. Pooja Yadav, with Ms. Yamuna Parekh, i/by Mr. Sunil Sonawane, for Defendant No.4-MCGM.

Mr. Sunil Bharambe is present.

**CORAM : A. K. MENON, J.**

**DATE : 1<sup>ST</sup> JULY, 2022.**

**P.C. :**

1. Mr. Prithviraj H. Bajaj (PW-1) has today tendered his additional affidavit in lieu of examination-in-chief dated 28<sup>th</sup> May 2022. He affirms the contents thereof as true and correct to his own knowledge. The affidavit-of-evidence is taken on record and marked as **Exhibit P-28**.

2. The statement of admission and denials has been filed in respect of plaintiffs' documents by defendant nos.1, 2 and 4. As far as defendant no.1 is concerned, after taking inspection of the original documents, the defendant no.1 has admitted only copy of Exhibit-J, which is a statement of one Omprakash Vashishta, Executive Engineer, Civil Engineering Department of LIC of India, dated 2<sup>nd</sup> March 1995. Since

execution and contents of the document admitted, by consent, the same is marked as **Exhibit P-27**. None of the other documents have been marked and the same have already been marked for identification.

3. On behalf of defendant no.2-MHADA, Mr. Lad has tendered statement of admission and denials. While marking documents at sr.nos.1 and 2, as provided in *“Additional Documents in Additional Affidavit in lieu of Examination-in-Chief of Plaintiff No.1”*, those documents are not admitted in evidence since they are copies of the application under RTI and responses thereto. Item 8 in the aforesaid list is a copy of the FIR No.499/94 registered at the Cuffe Parade Police Station, Mumbai. Existence of the FIR is admitted, but the contents thereof are not admitted.

4. On behalf of the defendant no.4-Municipal Corporation, statement of admission and denials is tendered by Ms. Yadav. As regards items 1 and 14 viz. copy of the Birth Certificate of one Pranaya Bajaj and copy of Income Tax Challan for the Assessment Year 1995-96, they have already been marked to be read in evidence. The existence of item 28 is admitted, but contents are not admitted since the author of the document is not in service of the Municipal Corporation any longer. Since document at item 27, i.e. letter dated 21<sup>st</sup> July 1994 has already been marked as Exhibit P-15, Mr. Sarada seeks leave of the court to have summons issued to Amarnath Dube, who was the Ward Officer, “A” Ward, during the period 6<sup>th</sup> April 1992 to 24<sup>th</sup> June 1997. This he submits is on the basis of deposition of Mr. Sunil Bharambe, Assistant Engineer, Building & Factory Department, “A” Ward, recorded on 7<sup>th</sup> June 2022.

5. At this stage, it is pointed out by Ms. Yadav that Mr. Amarnath Dube is not in a position to attend court due to his advanced age. Mr. Sarada states that he has instructions to apply for appointment of a Commissioner.

6. An additional affidavit-of-documents dated 31<sup>st</sup> March 2022 discloses copies of six newspaper articles in English newspapers Mid Day, Indian Express and Times of India. None of these are admitted by the defendants and they will be marked as **Articles X-21 to X-27**.

7. In view of the above, I pass the following order :-

- (i) In view of the fact that the Suit is expedited, the Prothonotary and Senior Master is directed to appoint an officer of this court as Commissioner for recording evidence of Mr. Amarnath Dube as per his convenience and at his residence, after notice to all the defendants. The Commissioner shall ascertain whether the witness is in a position to depose before proceeding to fix a schedule.
- (ii) By consent, Mr. Priyank Kapadia, Advocate, is appointed as Commissioner for recording evidence. He shall fix a preliminary meeting within one week of being provided with a copy of this order and shall finalize a schedule for conducting cross-examination.

- (iii) Since the suit is expedited, list before the appropriate court on 12<sup>th</sup> July 2022 “for directions”.
- (iv) In view of the above, the original documents produced by the Metropolitan Magistrate’s Court shall be returned to the said court with a request to retain the same for further production, if so required.

**(A.K. MENON, J.)**