

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

SUIT NO. 773 OF 2007

Asmabegum CHS Ltd.

...Plaintiff

vs.

Atul Builders and Ors.

...Defendants

Ms. Deepanjali Mishra with Wasim Hassan for the Plaintiff.

Mr. Karl Tamboly with Mr. Bhavin Shah, Mr. Akshit dedhia and Ms. Dhanashree Haumarkar i/b Wadia Ghandy & Co. for the Defendants No. 1 & 2.

CORAM : ABHAY AHUJA, J.
DATE : 24th MARCH, 2026

PC. :

1. This matter has been listed for framing of issues. After some discussion, the following issues are framed by consent:-

ISSUES

- (i) Whether the Plaintiff proves that it is entitled to declaration that it is the lawful owner of the Suit property?
- (ii) Whether the Defendant No. 3 had power and / or authority to enter into the Deed of Conveyance dated 30th May, 2005 on behalf of the erstwhile owners of the Suit property?
- (iii) Whether the Plaintiff proves that the Deed of Conveyance dated 30th May, 2005 is a valid conveyance in its favour?
- (iv) Do Defendants Nos. 1 and 2 proves that the present Suit is liable to be stayed under Section 10 of the CPC pending the final hearing and

disposal of Suit No.2941 of 2005 (filed by Defendants No. 1 and 2 *inter alia* seeking cancellation of the Conveyance dated 30th May, 2005)?

(v) Whether the suit is within or beyond the prescribed period of Limitation?

(vi) Whether Defendants No. 1 and 2 prove that the Suit is bad for non-joinder or misjoinder of necessary parties?

(vii) Whether the Defendants No. 1 and 2 proves that the present Suit is barred by the principles of Res Judicata or Constructive Res Judicata or issue estoppel in view of orders passed in the previous Suit No. 732 of 2006 filed by the Defendant No.4?

(viii) Whether the Defendants No. 1 and 2 prove that the present Suit has not been properly and lawfully valued in accordance with the provisions of the Maharashtra Court Fees Act, 1959 and that the required Court fee as per law has not been paid?

(ix) Whether the Plaintiff proves that it is entitled to possession of the Suit property?

(x) Whether the Plaintiff proves that the planning permission obtained by the Defendants no. 1 and 2 and construction carried out by them are illegal?

(xi) Whether the Plaintiff proves that the construction carried out on the Suit property ought to be demolished?

(xii) Whether the Defendants No. 1 and 2 prove that the Deed of Conveyance dated 30th May, 2005 is void ab initio?

(xiii) Whether the Defendants No. 1 and 2 prove that the Deed of Conveyance dated 30th May, 2005 was executed subject to the rights claimed over the Suit property by the Defendants No. 1 and 2?

(xiv) What order and decree?

(xv) What order as to costs?

2. Let the Plaintiff within a period of six weeks file an affidavit of examination-in-chief of the Plaintiff's witness along with affidavit and compilation of documents duly indexed and paginated and serve the same upon the Defendants alongwith list of Plaintiff's witnesses.

3. Discovery and inspection to be completed within a period of two weeks thereafter.

4. Defendants to file statements of admission and denial within a period of two weeks after that with a copy to the other side.

5. List for marking of the Plaintiff's documents on **16th June, 2026**.

6. Let the Plaintiff's witness remain present on the next date.

7. Let parties endeavour to furnish a chart containing the exhibit numbers by the next date.

(ABHAY AHUJA, J.)