

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

SUIT NO.984 OF 2007

Sanjeev Rajendra Pandit & Ors.Plaintiffs

V/s.

Om Prakash Sharma & Ors.Defendants

Mr. Vishal Kanade a/w Mr. Himanshu Pradhan i/b. M/s. Crawford Bayley & Co. for the Plaintiffs.

Mr. Mansukhlal Hiralal for the Defendant Nos. 1 and 2.

Ms. K.R. Davierwala i/b. Mulla & Mulla for the Defendant No.3.

CORAM : K.R.SHRIRAM,J

DATE : 27th August, 2014

P.C.:-

1 The following issues arise in the suit :

(1) Whether the Plaintiffs prove that the original Defendant No.3 was not the sole surviving Trustee in respect of the suit properties?

(2) Whether the Plaintiffs prove that the Trust created under the said document dated 23rd September, 1933 read with the Deed Poll dated 16th September, 1934 stood dissolved in the year 1984?

(3) Whether the Plaintiffs prove that the original Defendant No.3 was not entitled to unilaterally sign, execute any document on behalf of the Trust and unilaterally deal with the properties of the Trust?

(4) Whether the original Defendant No.3 had executed the Power of Attorney dated 2.1.2007?

(5) If the answer to issue no.4 is in the affirmative, whether Defendant Nos. 3(b) to 3(e) prove that in January, 2007 the

original Defendant No.3 was not in the frame of health nor in the condition to execute the Power of Attorney dated 2.1.2007?

(6) If the answer to issue no.4 is in the affirmative, whether the Power of Attorney dated 2.1.2007 has been obtained illegally and fraudulently?

(7) If the answer to issue nos. 1 to 5 is in the affirmative and the answer to issue no.6 is in the negative, then whether under the Power of Attorney dated 2.1.2007, the Defendant No.2 was entitled to execute the impugned Development Agreement dated 12.1.2007 in favour of Defendant No.1?

(8) Whether the Plaintiffs prove that Defendant Nos. 1 and 2 have no right or authority to develop or redevelop the suit property?

(9) Whether Plaintiff Nos. 1 to 3 are jointly entitled to 1/3rd undivided share in the properties?

(10) Whether the Plaintiff Nos. 6 to 9 are jointly entitled to 1/3rd undivided share in the properties?

(11) Whether the Plaintiffs are entitled to a decree of permanent injunction against the Defendant Nos. 1 and 2 restraining the Defendant Nos. 1 and 2 from acting in any manner under the alleged Power of Attorney dated 2.1.2007 and the alleged Development Agreement dated 12.1.2007?

(12) What decree? What order?

2 The Plaintiffs to file their list of witnesses, affidavit in lieu of examination in chief of their first witness together with compilation of documents and serve a copy thereof upon the Defendants within four weeks from today.

3 Stand over to 8th October, 2014 to decide on the admissibility/markings of documents on which date the Plaintiffs to keep their first witness present in Court.

(K.R.SHRIRAM,J)