

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
SUIT NO. 1718 OF 2012

Maria F. Sequeira and Ors. ... Plaintiffs
Versus
Feroze H. Dugan and Anr. ... Defendants

Mr. R.S. Tripathi i/b. Mr. N.Y. Chavan for the Plaintiffs.
Mr. Shailesh Shah, Sr. Adv. a/w. Mr. Prakash Ganwani, Mr. J.S. Solomon, Ms. Soniya Putta i/b. M/s. Solomon & Company for Defendant No. 1.
Ms. Neeta Solanki i/b. Kiran Jain and Co. for Defendant No. 2.
Mr. N.M.Shaikh, Joint District Registrar (Abhilekh), Mumbai, present in person.
Mr. B.P. Jamdade, Jr. Clerk, Government Photo Registry, Pune, present in person.

CORAM : S.J. KATHAWALLA, J.
DATED : 18TH NOVEMBER, 2015

P.C.

1. Pursuant to the order passed by this Court dated 21st October, 2015, Mr. N.M.Shaikh, Joint District Registrar is present in Court. He has produced a photo copy of purported Indenture dated 1st August, 1949 purportedly bearing registration No. 3573/1/6 of 1949 and purportedly executed by J.N. Duggan and Jena J. Duggan in favour of John Mariano Bernadino Sequeira in respect of property, which is described in the Schedule of the said document as under :

*“ALL That piece or parcel of land or ground TOGETHER WITH
the messuages, tenements or dwelling houses standing thereon situate
at Walkeshwar at Harkness Road in the Registration Sub-District of
Bombay containing by admeasurement four thousand and eighty*

square yards or thereabout and registered in the books of the Collector of Land Revenue under Old No. 572, New No. 1 / 2701, Old Survey No. 21 and New Survey No. 7191 and assessed by the Assessor and Collector of the Bombay Municipality under 'D' Ward No. 3236, Street No. 3-5-6 and bearing Cadastral Survey No. 242 of Malabar and Cumballa Hills Division”.

2. Mr. Shaikh informs the Court that the original is not available in the records and that the said photostat copy is received by his office from the Pune office. The same is certified as a true copy on 7th June, 2011 by the said Pune office. The said copy is taken on record.

3. Mr. Shaikh has also submitted a register which contains a list of documents sent to the Government Photo Registry Pune bearing serial Nos. 1 to 161 of the year 1949. On the page bearing list No. 125 in the said Register, Mr. Shaikh shows me the last entry where only in the column captioned 'serial No.' the handwritten number 3573 can be seen / read. A part of the page is torn in such a manner that all other particulars set out in all other columns namely number of sides, name of presenting party, extra copies and remarks is not available. I have gone through all the pages of book and found that no other pages are torn except as stated hereinabove.

4. Mr. Shaikh has also produced Index No. I, where again half the page is torn and no particulars qua the document bearing registration No. 3573 are found on that said page. I have gone through all the pages of Index No. I and there is no

other page except page No. 805 where again quarter of the page has been very carefully torn and removed. The said two books / registers as well as the true copy of the purported Indenture dated 1st August, 1949 are taken in custody of the Court and the same shall be kept by the Prothonotary and Senior Master in the safe custody until further orders.

5. Mr. Shaikh states that cards pertaining to the other properties are available, however only qua the Suit property namely Cadastral Survey No. 242, the same are not available. Again, though Day Books pertaining to the other documents are available, the same is not available only qua the purported Indenture dated 1st August, 1949.

6. Mr. Shaikh states that the book bearing the caption Index-I is also referred to as Book No. 1 and his office does not maintain any book by name Book No. 1. Mr. Shaikh further states that at the relevant time Index-II was not maintained.

7. Mr. B.P. Jamdade from Government Photo Registry Pune is present in Court. He states that the registry is unable to produce the positive as well as negative of documents since they do not have list number (Yadi Number). He was shown the register (Vol. 32) bearing list No. 125 and he confirms that since the said list number is now made available he shall produce the positive as well as negative of documents set out in the Witness Summons. In view thereof, Mr. B.K. Khandekar, Manager, Government Photo Registry, Pune shall remain

present along with the documents set out in the Witness Summons before this Court on 2nd December, 2015 at 3 p.m.

Stand over to 2nd December, 2015 at 3 p.m.

(S.J.KATHAWALLA, J.)