

Arun

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
SUIT NO. 1998 OF 2007**

Jatin M Sheth & Anr ...Plaintiffs
Versus
Matangi Property Pvt Ltd & Ors ...Defendants

Mr Arif Bookwala, Senior Advocate, with Mr Filji Frederick, Mr Archit Chaturvedi & Prateeti Thakar, i/b FF & Associates, for the Plaintiff.

Mr HH Mansukhni, for Defendant No.1.

Ms Heena Mody, for Defendants Nos. 2 to 51, except Defendants Nos. 17 and 30.

Ms Minal Chandnani, for Defendants Nos. 17 and 30.

**CORAM: G.S. PATEL, J
DATED: 18th March 2019**

PC:-

1. Mr Bookwala for the Plaintiff tenders Consent Terms as between the Plaintiff and the 1st Defendant. These have been signed by the 3rd Plaintiff and by an authorised signatory of the 4th Plaintiff. It seems that 4th Plaintiff firm holds a power of attorney from the 3rd Plaintiff. The 1st Defendant is a real estate development company and there is a signature of its authorised signatory on these Consent Terms.

2. I am not satisfied that an order should be made on the Consent Terms. Essentially, by these Consent Terms the 1st Defendant submits to a decree that the Memorandum of Understanding dated 14th May 2007 between the 1st Defendant and Defendants Nos. 2 to 51 is unenforceable, void and not binding on the Plaintiff. This surrender comes after the 1st Defendant filed a Written Statement in September 2017 — not very long ago — contesting the suit on every conceivable ground.

3. The suit was originally filed by three HUFs represented by their Kartas. Plaintiffs Nos. 1 and 2 Kartas were deleted sometime in 2014. It is unclear from the Plaint what happened to the HUFs they represented, because the Plaint itself has no amendment explaining how 3rd Plaintiff, earlier joined as a Karta of a separate HUF, could continue the suit for the HUFs represented by erstwhile Plaintiffs Nos. 1 and 2.

4. Defendants Nos. 2 to 16, 18 to 29 and 31 to 51 have filed their Written Statement contesting the suit. None of these Defendants are parties to these Consent Terms.

5. There is also apparently some objection sought to be raised by a family member of the original 1st Plaintiff, but presently I cannot consider that for want of any substantive application.

6. The property in question is a substantial tract of land at Chandivali. I cannot escape the feeling that there is certainly something more to these Consent Terms than meets the eye. There

is no explanation whatsoever as to why the 1st Defendant has, after filing a Written Statement, completely abandoned his defence. I am unclear as to how this affects the position of the other Defendants. There is also no explanation as to how the 3rd Plaintiff represents the interest of the original Plaintiffs Nos. 1 and 2.

7. No orders on the Consent Terms. The Consent Terms presented today are retained on record and marked 'X' for identification but without any order made thereon.

8. List the matter for directions on 10th June 2019.

(G. S. PATEL, J)