

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

SUIT NO. 786 OF 1994

Wider Church Ministries (formerly known as
United Church Board of World Ministry) ... Plaintiff

Versus

Municipal Corporation of Greater Bombay
and others ... Defendants

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Mr. Piyush Raheja alongwith Mr. Anuj Jaiswal, instructed by Little & Co., Advocate for the Plaintiff.

Mr. P.G. Lad alongwith Ms. Sayali Apte, Ms. Anjali Maskar and Mr. Rohit Gaikwad instructed by Ms. Komal Punjabi, Advocate for the MCGM-Defendants No.1 and 2-MCGM.

Mr. Robert Moses, witness, present.

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CORAM : ABHAY AHUJA, J.

DATE : 29 SEPTEMBER 2025

PC. :

1. In the morning session, this matter was directed to be kept back for marking of balance documents.

2. When the matter is called out, Mr. Raheja, learned Counsel, appears for the Plaintiff and submits that the Plaintiff's witness Mr. Robert Moses is present in Court for further marking of documents.

3. The witness is requested to step into the witness box and is administered oath by the learned Associate of this Court.

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PW-1 :

Name : Robert Moses
Age : 55 years
Occupation : Service
Address : W.F.P.M. Hospital, Wai, District : Satara.

Further Examination-in-chief of Mr. Robert Moses, PW-1 on S.A. :

4. Since on the last date, the documents were marked till serial No.2, the witness is shown the documents from serial No.3 onwards of the compilation of documents containing 26 documents. The witness has deposed to the truth and contents of the said documents.

5. Mr. Lad, learned Counsel, appears for the Defendants No.1 and 2 and submits that the documents at serial Nos.3 and 4 of the compilation of documents containing 26 documents can be marked as exhibits, subject to proof of contents.

6. Accordingly, the said documents at serial No.3, viz. copy of the order dated 3rd April 1978 passed by the Charity Commissioner and serial No.4, viz. office copy of the letter dated 10th April 1978 addressed by trustee of Plaintiff No.1 to Defendant No.2, are respectively marked as **Exhibits PW-1/18** and **PW-1/19**, subject to proof of contents.

7. Mr. Lad, further submits that he has instructions to admit the documents at serial No.5 viz. typed copy of letter dated 11th April 1978

from Defendant No.2 to Plaintiff No.1, serial No.6 viz. copy of Intimation of Disapproval dated 10th June 1978, serial No.7 viz. Letter dated 20th June 1978 addressed by Architect to the Plaintiff No.1 alongwith true copy of the commencement certificate, serial No.8 viz. typed copy of the letter dated 11th July 1978 from Defendant No.1 to Architect and serial No.11 viz. copy of the standard form of Agreement for Sale and that the same can also be marked as exhibits.

8. Accordingly, the documents at serial Nos.5, 6, 7, 8 and 11 of the compilation of documents containing 26 documents are respectively marked as **Exhibits PW-1/20 to PW-1/24**.

9. As regards, the documents at serial Nos.19 and 23 of the compilation of documents containing 26 documents, Mr. Lad, submits that the existence of the said documents are admitted. However, the contents are denied and therefore, the said two documents can be marked as exhibits, subject to proof of contents.

10. The said two documents at serial No.19 viz. copy of letter dated 1st August 1991 from Defendant No.1 to Plaintiff No.1 and serial No. 23 viz. office copy of the Plaintiffs' Advocate's letter dated 22nd July 1993 addressed to Defendant No.1 are accordingly marked as **Exhibits PW-1/25 and PW-1/26**, subject to proof of contents.

11. With respect to the documents at serial Nos.16 and 17 of the compilation of documents containing 26 documents, Mr. Raheja submits that the same forms part of the chain of correspondence between the Law Firm for the Plaintiff and the Law Firm for the Defendant No.4. That Defendant No.4 has neither filed any written statement nor come forward and filed any statement of admission and denial. Both Mr. Raheja, learned Counsel for the Plaintiff and Mr. Lad, learned Counsel for the Defendants No.1 and 2 submit that both the documents can be marked as exhibits, subject to proof of contents as their existence cannot be denied in view of the chain of correspondence.

12. Accordingly, the said documents at serial No.16 viz. typed copy of the Plaintiff No.1's Advocate's letter dated 14th December 1987 and serial No.17 viz. copy of Defendant No.4's Advocate's letter dated 14th March 1988, are respectively marked as **Exhibits PW-1/27** and **PW-1/28**, subject to proof of contents.

13. With this, the marking of Plaintiff's documents is concluded. The Plaintiff's witness stands discharged today.

14. The learned Counsel submit that the Commissioner be appointed for recording the cross-examination of the Plaintiff's witness viz. PW-1 by the Advocate for the Defendants No.1 and 2.

15. This Court has suggested the name of Ms. Pallavi Bali, Advocate. The learned Counsel are agreeable. Accordingly, Ms. Pallavi Bali, learned Counsel of this Court, is appointed as Commissioner to record the cross-examination of the Plaintiff under the following directions :

- (a) The Commissioner is at liberty to exercise discretion under Order XVII Rule 4(4) of the Code of Civil Procedure, 1908, to note the demeanour of the witnesses where necessary.
- (b) All cross-examination shall be conducted strictly in question and answer form.
- (c) The Commissioner will also be at liberty to direct that the whole or any part of the cross-examination should be video recorded for later reference of the Court. Should that be done, the original audio visual recording will be submitted along with the Commissioner's Report to the Registry.
- (d) Liberty to the parties as also to the Commissioner to apply in case of difficulty.
- (e) All re-examination will be conducted only in court.
- (f) Costs of the commission shall be borne equally by the parties.
- (g) Parties shall also pay costs of Rs.500/- per hearing to the Court Clerk who attends the commission with Court Papers. This is required since these clerks attend the commission in addition to their regular duties and outside their normal working hours.
- (h) The Commissioner is not to permit any applications for adjournment on dates previously fixed, except where absolutely unavoidable. Counsel's inconvenience or unavailability does not constitute such unavoidability.

16. The contact details of Ms. Pallavi Bali are as under :

Name : Ms. Pallavi Bali
Address : 202/203, 2nd Floor, Mulla House,
Above Kitab Khana,
Fort, Mumbai – 400 001.
(Chambers of Mr. Pradeep
Sancheti, Senior Advocate)
Mobile No. : 9930514359

17. Parties and Counsel to co-operate with the learned Commissioner and to equally bear her costs, charges and expenses.

18. Let the learned Commissioner submit her report, preferably by the next date.

19. List on **16th December 2025**.

(ABHAY AHUJA, J.)