

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

SUIT NO.786 OF 1994

The United Church Board of World Ministers & Ors.Plaintiffs

V/s.

Municipal Corporation of Gr.Bombay & Ors. ...Defendants

Mr.Kiran Gandhi a/w Mr.Anuj Jaiswal i/by M/s.Little & Co. for plaintiffs.

Mr.R.Y.Sirsikar for defendant (BMC).

CORAM : K.R.SHRIRAM,J

DATE : 6.6.2017

P.C.:-

1 Defendant nos.3 to 82 have not filed any written statement despite the order passed by this Court dated 25.8.2014. Therefore, the suit as against defendant nos.3 to 82 be transferred to the list of undefended suit.

2 Heard the counsel. The following issues arise in the matter.

ISSUES

(1) Whether the defendants prove that it was incumbent on the plaintiffs to give statutory notice to the defendants before filing the suit as required under Section 527 of the MMC Act ?

(2) If answer to issue no.(1) is in the affirmative, whether the defendants prove that the suit is required to be dismissed ?

(3) Whether the defendant no.1 proves that the suit notices are executed by administrative acts or orders and the same are not open to challenge in the Court of law ?

(4) Whether the plaint requires to be rejected for non disclosure of cause of action as against defendant no.1 ?

(5) Whether the plaintiffs' prove that the Resolution of the Improvements Committee bearing No. 437 of 4th October, 1978 of Defendant No. 1 is bad-in-law and not binding upon Plaintiffs and/or Defendant Nos. 3 to 82a?

(6) Whether the plaintiffs' prove that the Resolution No. 242 dated 12th September, 1989 allegedly terminating and/or forfeiting Indenture of Lease dated 19th December, 1905 in respect of Nagpada Land is bad-in-law and not binding upon the Plaintiffs?

(7) Whether the plaintiffs' prove that any actions taken by Defendant Nos. 1 and 2 and/or their officers, subordinates, servants and agents in terms of the Resolutions of the Improvement Committees viz., Resolution bearing No. 437 of 4th October, 1978 and

Resolution bearing No. 242 of 12th September, 1989 are binding upon the Plaintiffs?

(8) Whether the plaintiffs' prove that actions of Defendant Nos. 1 and 2 issuing notices for levying extra ground rent in respect of Nagpada Land binding upon Plaintiffs and/or Defendant Nos. 3 to 82a?

(9) Whether the plaintiffs' prove that actions of Defendant Nos. 1 and 2 allegedly re-entering upon the Nagpada Land more particularly described in Exhibit "A" to the Suit i.e., Nagpada Land is binding upon the Plaintiffs?

(10) Whether the plaintiffs' prove that the actions of Defendant Nos. 1 and 2 and/or their officers, subordinates, servants and agents seeking to oust the Plaintiffs from the possession of the Nagpada Land and buildings standing thereon and allegedly calling upon the tenants and other occupants of the different premises in the Buildings of the Nagpada Land and attornment of Plaintiffs' tenants to Defendant No. 1 are binding upon the Plaintiffs?

(11) Whether the plaintiffs' prove that the actions of Defendant Nos. 1 and 2 and/or their officers, subordinates, servants and agents from interfering with the Plaintiffs rights to recover the rent and/or income from

tenants and occupants of the buildings on the said Nagpada Land is bad-in-law and not binding upon the Plaintiffs?

(12) Whether the plaintiffs' prove that the Defendant Nos. 1 and 2 and/or Defendant No. 3 are liable to repay the extra ground rent of sum of Rs. 2,60,826/- illegally collected from Plaintiffs?

(13) In the alternative to above, this Hon'ble Court held that the Resolutions of the Improvement Committees of Defendant No. 1 are valid in law, subsisting and binding upon the Plaintiffs then in that event whether the plaintiffs' prove that Defendant Nos. 3 to 82a are jointly and severally liable to pay the extra and/or additional ground rent levied by Defendant Nos. 1 and 2 and not the Plaintiffs?

(14) Whether the Plaintiffs prove that they are entitled to recover sum of Rs. 21,41,37,000/- as compensation for loss of the Nagpada Land and buildings standing thereon and the income thereof from Defendant No. 3?

(15) Whether plaintiffs' prove that Defendant No. 3 and/or Defendant Nos. 4 to 82a are liable to indemnify Plaintiffs against the non-payment of extra ground rent?

(16) What order ? What decree ?

3 Parties to file their respective affidavit of documents, complete discovery and inspection and exchange statement of admission and denial with reasons for denial on or before 30.6.2017. The plaintiffs to file affidavit of evidence of their first witness together with compilation of documents and serve a copy thereof upon the defendants on or before 10.7.2017.

4 Stand over to 17.7.2017 for marking of documents/receiving evidence on which date plaintiffs' first witness shall remain present in Court.

(K.R.SHRIRAM,J)