



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

WRIT PETITION (L)NO.19216 OF 2021

Gerald M. Misquitta] Petitioner.

Vs.

State of Maharashtra & Ors.] Respondents.

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Mr. Vishal Kanade a/w Mr.Mobil Punjabi i/b J.P. Ranawat for petitioner.

Mr.M. A. Sayed, AGP for State.

Mr.U.Samudzala for Respdt. no.3.

Mr.Rushabh V. Thacker for Respdt nos.7 to 11.

Mr.Atul Daga, Mr. Yatin Shah a/w Shivam Bhagwati Mr. Shahzad Khojotia i/b Yatin Shah for Respdt no.12.

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CORAM : K.K. TATED &
PRITHVIRAJ K. CHAVAN, JJ.

DATE : 9TH SEPTEMBER, 2021.

P.C.

1. Heard learned Counsel for parties.

2 Present petition is filed by the Executor and Trustee under the Will dated 16.08.1993 of deceased Michael John Misquitta to



challenge deemed conveyance order dated 28.05.2014 passed by Respondent No.2 in Application No.249 of 2013.

3. Learned Counsel Mr. Vishal Kanade appearing on behalf of the petitioner submits that under Indenture of Lease dated 28.06.1974 petitioners are shown as Lessor of the said property. In support of his contention, the learned Counsel for the petitioner relies on paragraph 3 of the Deed of Assignment dated 05.07.2014 which reads thus;

3. Under Indenture of Lease dated 28.06.21974 executed by and between 1)ANTHONY JOHN MISQUITTA 2)MICHEL JOHN MISQUITTA 3)PHILLIPS LOWRENCE MISQUITTA 4)JOHN ALEX MISQUITTA 5) LESLIE MISQUITTA AND 6) NELSON MISQUITTA therein referred ot as the “Lessors” of One Part and MR.CHANDRU LACHMANDAS RAHEJA AND MR.SURESH LACHMANDAS RAHEJA, Partners of M/s C.S.Enterprises therein referred to as the “LESSEES” of Other Part, the LESSORS therein agreed to grant lease of said larger plot of land to the Lessees therein for the term of 98 years and on the terms and conditions mentioned there under. The said Indenture of Lease dated 28.06.1974 was duly registered with Sub-Registrar of Assurance, Bombay on 03.03.1975 under Sr.No.BOM/S/2307/1974.

4. Learned Counsel for the petitioner submits that subsequently, respondent filed an application for correction in Deemed Conveyance on 31.03.2021. He submits that another application filed by respondents on 13.08.2021 where they had shown legal heirs of



Michael John Misquitta as respondent no.4. He submits that admittedly, original Deemed Conveyance order dated 28.5.2014 passed by respondent no.2 in Application No.249 of 2013, without joining petitioner as necessary party. Hence, they preferred present writ petition.

5. At this stage, leaned Counsel appearing on behalf of respondent nos.3 and 12 after taking instructions from their respective clients, makes a statement that, they are ready and willing to delete the name of the petitioner from Application No.249 of 2013 dated 03.08.2021. He submits that, to that effect, they are ready to file an affidavit. He submits that for that purpose, they want some time.

6. In view of this fact, following order is passed.

:ORDER:

a) Liberty is granted to Respondent No.6 and 12 to file affidavit stating that they want to withdraw application dated 03.08.2021 against the petitioner before District Deputy Registrar, Cooperative Societies Mumbai Suburban (3) Office of the Competent Authority in Application No.249/2013 with copy to other side.

b) Registry is directed to place this matter on 13.9.2021 under



caption ‘*for direction*’.

[PRITHVIRAJ K. CHAVAN, J.]

[K. K. TATED, J.]