

Atul

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

SUIT NO. 577 OF 2009

Jayanand Khira & Co Pvt Ltd & Anr ...Plaintiffs
Versus
Chittaranjan Damodardas Shah & Ors ...Defendants

SUIT NO. 1151 OF 2011

WITH

NOTICE OF MOTION NO. 1558 OF 2011

Jayanand Khira & Co Pvt Ltd & Khira Steel ...Plaintiffs
Works Pvt Ltd
Versus
Viral C Shah & Ors ...Defendants

SUIT NO. 1438 OF 2011

WITH

NOTICE OF MOTION NO. 2222 OF 2011

Chittaranjan D Shah & Ors ...Plaintiffs
Versus
Chanchalben Murji Chheda & Ors ...Defendants

SUIT NO. 2211 OF 2011

WITH

NOTICE OF MOTION NO. 2650 OF 2011

Chanchalben Murji Chheda & Ors ...Plaintiffs
Versus
Viral Hotel & Theatres Pvt Ltd & Ors ...Defendants

SUIT NO. 2500 OF 2012

WITH

**NOTICE OF MOTION NO. 329 OF 2013
AND
CHAMBER SUMMONS NO. 740 OF 2014**

White Rose CHS Ltd & Ors ...Plaintiffs
Versus
Khira Nagar Coop Hsg Societies Association Ltd ...Defendants
& Ors

COMMERCIAL SUIT NO. 46 OF 2014

National Bank for Agriculture & Rural ...Plaintiff
Development
Versus
Saral Enterprises & Ors ...Defendants

Ms Huda Diamondwala, i/b Diamondwala & Co., for the Plaintiff in S/577/2009 & S/1511/2011.

Mr Sahil Ansari, i/b Bipin Joshi, for the Plaintiff in S/1438/2011, & Defendants Nos. 1 to 3 in S/577/2009 & for Defendants Nos. 1 to 5 in S/1151/2011.

Mr Jayesh Vyas, for the Plaintiff in S/2500/2012.

Mr SP Bharti, for the Plaintiff in Coms/46/2014.

Mr Rohaan Cama, with Mohanty, i/b Mohanty & Associates, for Defendants Nos. 1 & 2 in Coms/46/2014.

Ms Mamta Sadh, i/b Sudhakar G Lakhani, for Defendants Nos. 7 to 14 in S/577/2009, for the Plaintiff in S/2211/2011, for Defendants Nos. 1, 2, 3(a) to (b) and 4 to 8 in S/1438/2011.

**CORAM: G.S. PATEL, J
DATED: 12th March 2019**

PC:-

1. This is a group of six suits. I am told that there are some pending Notices of Motion. I will turn to those on another date.

There is a considerable overlap of parties in these six suits. In the initial part of this order, I propose to set out very broadly the outline of the subject matter of the dispute and identify, equally broadly, the disputant groups.

2. The property in question is a large tract of land of about 42,000 sq mtrs at Santacruz called Khira Nagar. The originating title flows from what I will call the Khira Group which includes several entities and individuals who bear that name. The second group is what I will call the CD Shah Group represented by Chittaranjan Damodardas Shah, his family members and their family-held or controlled entities. They claim to have acquired title to this property from the Khira Group.

3. From the CD Shah Group, three different streams of claims emerge. One is by NABARD. It claims a portion of the larger land on which there are five buildings of NABARD's officers' accommodation. The second is the Chheda Group headed by one Murshi Ranji Chheda, his family and their entities and firms. Then there are 16 cooperative societies and a federation or apex society which occupy 16 buildings on this land. Finally, there is a very broad claim by another developer, Kumar Urban Development Company Ltd, which claims that it has redevelopment rights to the entire property of 42,000 sq mtrs (subject to NABARD's rights). The State Government and the MCGM are parties to some but not all these suits.

4. It seems to me logical that the Khira Group's Suit No. 577 of 2009 is really the starting point. There are two reasons for this. First, it is the earliest suit in point of time. Second, the Khira Group is apparently the source of title and answers to the issues to be framed in the Khira Group suit will possibly have a direct effect and impact on more than one of the other suits. The societies and NABARD are not parties so far as I can tell to the Khira Group suit. They will have to be treated separately.

5. In the time since the first of these suits was filed, several parties have passed away. I would find it difficult to proceed even at the stage of framing issues unless there is a completely accurate statement before me as to the status of each of the suits. I will, therefore, have all these matters listed before Ms Rajashri Kale, Master & Assistant Prothonotary (Judicial) with a request that she place a report with the following particulars in each suit:

- (a) Whether any of the Defendants who are not represented have remained unserved;
- (b) Whether there is an order against any of the Defendants transferring the suit in question to the list of undefended causes;
- (c) A confirmation of which of the Defendants have filed written statements (Ms Kale is requested to take care to see whether a particular Defendant has filed a written statement only for himself or herself or also on behalf of others);

(d) Which of the Defendants has passed away and whether the heirs of that Defendant have been brought on record and appropriate amendments made.

6. Copies of this analysis will be given to the Advocates for the Plaintiffs in all these suits. They will then ensure that copies are forwarded to the Advocates for the Defendants in their respective suits.

7. Once this is complete, I will then take up each of the suits for directions for impleading legal heirs (if necessary), and framing issues where all pleadings are complete. If time is required for completing the pleadings, I will set a schedule.

8. These are matters are complex and intertwined. The property is extremely large, and the disputes affects very many people. For these reasons, I request Ms Kale to give this task her most urgent personal attention and not to depute the work to another officer.

9. List this entire group for directions on 2nd April 2019.

(G. S. PATEL, J)