

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

SUIT NO. 577 OF 2009

Jayanand Khira and Company ... Plaintiffs
Pvt. Ltd. and Anr.
vs.
Chitaranjan Damodardas Shah & 17 Ors. ... Defendants

WITH

SUIT NO. 1151 OF 2011

WITH

NOTICE OF MOTION NO. 1558 OF 2011

Jayanand Khira and Company ... Plaintiffs
Pvt. Ltd. and Anr.
vs.
Dr. Viral C. Shah and 8 Ors Defendants

WITH

SUIT NO. 2211 OF 2011

Chanchalben Murji Chheda & 7 Ors. ... Plaintiffs
vs.
Viral Hotel and Theatres Pvt. Ltd. & 7 Ors. ... Defendants

WITH

COMMERCIAL SUIT NO. 46 OF 2014

National Bank for Agriculture and ... Plaintiff
Rural Development
vs.
Saral Enterprises and 5 Ors. ... Defendants

WITH
SUIT NO. 2500 OF 2012

White Rose CHS Ltd and Ors. ... Plaintiffs
vs.
Khira Nagar Co-op Hsg. Societies ... Defendants
Association Ltd and 25 Ors.

WITH
SUIT NO. 1438 OF 2011

Chittaranjan D. Shah and Ors. ... Plaintiffs
vs.
Chanchalben Murji Chheda and Ors. ... Defendants

Mr. Shaqeeb Shaikh a/w. Ms. Huda Diamondwala i/b. M/s. Diamondwala & Co. for the Plaintiff in S/577/2009 and S/1151/2011, for defendant no. 3 in COMS/46/2011, for Defendant nos. 5 and 6 in S/2211/2011, for Defendant nos. 13 and 14 in S/2500/2012 and for Defendant nos. 9 and 10 in S/1438/2011.

Mr. Bipin Joshi a/w. Ms. Vedanshi Shah and Mr. Govind Mohanty for Defendant nos. 1, 2, 3, 5 and 6 in S/577/2009, for Defendant nos. 1 to 5 in S/1151/2011, for Defendant nos. 1 to 4 in S/2211/2011, for Defendant no. 8, 9(a), 10 to 12 in S/2500/2012 and for Plaintiffs in S/1438/2011.

Ms. Mamta Sadh i/b. Mr. Sudhakar Lakhani for Defendant no.s 7(a), 7(b), 8, 10 to 14 in S/577/2009, for Plaintiff in S/2211/2011, for Defendant nos. 1, 2, 3(a), 3(b) and for defendant nos. 4 to 8 in S/1438/2011.

Mr. Himanshu Takke, AGP for Defendant no. 9 in S/1151/2011 for Defendant no. 17 in S/2500/2012.

Ms. Pinky Bhansali for Defendant no. 18 in S/577/2009, for Defendant no. 7 in S/1151/2011 and S/2211/2011 and for Defendant nos. 1 to 7 in S/2500/2012.

Ms. Dhruvi Kapadia a/w. Ms. Pooja Yadav for Defendant no. 8 in S/1151/2011.

Mr. S. P. Bharti for Plaintiff in COMS/46/2014.

Mr. Govind Mohanty i/b. M/s. Mohanty & Associate for Defendant nos. 1 and 2 in COMS/46/2014.

Ms. Pooja Yadav for Defendant no. 5 in COMS/46/2014.

Mr. Amit Shastri, AGP for Defendant no. 6 in COMS/46/2014.

Mr. Malcolm Siganporia i/b. Mr. Jayesh R. Vyas for Plaintiff in S/2500/2012.

CORAM : A. K. MENON, J.

DATED : 20th JANUARY, 2022

[THROUGH VIDEO CONFERENCE]

P.C. :

SUIT NO. 577 OF 2009

1. Mr. Shaikh states that defendant nos. 4a, 5 and 6 are yet to file their written statement. Mr. Shaikh further states that respondent no. 9 having expired defendant nos. 9(a) and 9(b) have been brought on record and they have been served. However no written statement is filed on their behalf.

2. Mr. Joshi on behalf of defendant nos. 1, 2, 3, 5 and 6 states that defendant no. 1 and 4 having expired legal heirs are already on record being defendant nos. 1(a) and 4(a).

3. He further states that written statements have been filed by defendant nos. 1 to 3. That written statement dated 18th April, 2011 is on record. Mr. Joshi states on instruction that defendant no. 1(a) and 4(a) adopt the written statement filed by defendant nos. 1 to 3.

4. Defendant nos. 5 and 6 are limited companies. Mr. Joshi states that defendant nos. 5 and 6 are yet to file written statement. That he is desirous to file a written statement which he undertakes to file on or before 25th January, 2022. Accordingly defendant nos. 5 and 6 to file their written statement on or before 25th January, 2022 copy to be served forthwith and filed in the registry.

5. Mr. Lakhani states that he appears for defendant nos. 7(a) and 7(b). Written statement on behalf of 7(a) and 7(b) are already on record.

6. Mr. Shaikh states that defendant nos. 9(a) and 9(b) who have been brought on record after defendant no. 9 expired have been served with writ of summons on 29th August, 2019. No written statement has been filed. In view thereof if no written statement is filed suit is liable to proceed against defendant nos. 9(a) and 9(b). Mr. Shaikh states that written statement of all other defendant have already been filed. In the circumstances suit will have to be listed for framing of issues.

7. Accordingly list for framing issues on 27th January, 2022.

SUIT NO. 1151 OF 2011

1. On behalf of the MCGM Ms. Kapadia states that written statement is not yet ready but it will be filed on or before 27th January, 2022 without fail.

2. Mr. Shaikh states that Notice of Motion no. 1158 of 2011 is pending and he has instructions to proceed with the motion. Accordingly list the motion on 27th January, 2022. No adjournment will be granted.

3. In the meanwhile Mr. Takke learned AGP states that he has not received instruction on behalf of defendant no. 9 in the matter of written statement and the relief sought by the State is only by way of injunction.

4. Mr. Shaikh further states that defendant no. 6 has not filed written statement. He submits that defendant no. 6 has been served with writ of summons. However, he is not aware of when this was served. If no writ of summons is served the suit is liable to be dismissed as against defendant no. 6.

5. List on 27th January, 2022.

SUIT NO. 2211 OF 2011

1. Mr. Lakhani submits that defendant nos. 1 to 6 have filed their written statement. That leaves defendant nos. 7 and 8. Ms. Bhansali on behalf of defendant no. 7 states that written statement has not been filed. She undertakes to file the same on or before the next date.

2. Accordingly written statement on behalf of defendant no. 7 shall be filed on or before 27th January, 2022. Mr. Lakhani seeks time to ascertain whether defendant no. 8 has been served.

3. List on 27th January, 2022.

COMMERCIAL SUIT NO. 46 OF 2014

1. Mr. Bharti states that all defendant have been served but only defendant nos. 3 and 6 have filed written statement. Mr. Mohanty states on behalf of defendant nos.1, 2(a) and 2(b) that in a proceeding before the Supreme Court of India they have arrived at a settlement with the plaintiff whereby certain property is to be demarcated and handed over. Mr. Bharti states that while that may be correct, the said defendants have failed to comply with the order of the Supreme Court. Mr. Mohanty seeks to contest this and seeks time to produce order of the Supreme Court.

2. Defendant no. 4 is not represented nor is defendant no.5. Ms. Yadav on behalf of the Corporation states that no written statement is filed. However in the event they wish to file written statement, written statement to be filed within one week from today. No further time will be granted.

3. Accordingly list on 27th January, 2022

SUIT NO. 2500 OF 2012

1 Mr. Joshi requests to file written statement on behalf of defendant nos. 8, 9A, 10 and 11. Time to file written statement is extended upto 24th January, 2022.

2. Stand over to 9th February, 2022 for ex-parte decree under the caption for undefended suits.

SUIT NO. 1438 OF 2011

1. Mr. Joshi states that written statement have been filed by respondent nos. 1, 2 and 3(a), 3(b), 4 and 8.

2. In view there of list the suit for framing issues on 27th January, 2022.

(A. K. MENON, J.)