

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

SUIT NO. 2335 OF 2012

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Darryl Dmonte ... Plaintiff

Versus

Saint Peters Church and others ... Defendants

.....
Ms. Mallika Taly alongwith Ms. Shamima Taly, Mr. Mukul Taly and Sehyr Taly instructed by S. Mahomedbhai & Co., Advocate for the Plaintiff.

Dr. Rohini Pandit, Advocate for the Defendants No.1 and 2B.

Mr. Kevin Gala, Advocate for the Defendant No.3.

Ms. Mahek Bookwala alongwith Ms. Vinali Bhaidkar and Hasi Nemavat, Advocate for the Defendant No.7.

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CORAM : ABHAY AHUJA, J.

DATE : 24 MARCH 2026

PC. :

1. This matter was kept back in the morning session as the parties were endeavouring to work out the draft issues.

2. When the matter is called out in the afternoon session, the parties have settled the draft issues and accordingly, the following issues are framed, by consent :

ISSUES

(i) Whether the Defendants prove that suit is barred by the law of limitation having regard to the provisions of Article 54 of the Limitation Act ?

- (ii) Whether the Plaintiffs prove that the Plaintiffs are the owners of the immovable property being admeasuring 1774.25 sq. mtrs. or thereabouts situated at Sr. John Baptist Road, Bandra (West), Mumbai – 400 050 ('Suit Property') as alleged in paragraph 1 of the Plaint ?
- (iii) Whether the Plaintiffs prove that they are entitled to a declaration that none of the Defendants have any ownership right, title or interest whatsoever in the Suit property ?
- (iv) Whether Defendant No.1 proves that Defendant No.1 followed all due process for sale of the suit property ?
- (v) Whether the Plaintiffs prove that the Decree dated June 29, 1988 of the Hon'ble Bombay City Civil Court is fraudulent decree and that the said Decree is null and void and is not binding upon the Plaintiffs ?
- (vi) Whether the Plaintiffs prove that the documents more particularly described in prayer clause (d) to the Plaint are null and void and not binding upon them as heirs of the Late Dr. Cecil Joseph D'Monte ?
- (vii) Whether the Plaintiffs prove that they are entitled to a Decree directing Defendant to deliver up the documents for purpose of cancellation and other ancillary reliefs as prayed in prayer clause (e) and (f) in the plaint ?
- (viii) Whether the Plaintiffs prove that the Plaintiffs are entitled to vacant and peaceful possession of the Suit property ?
- (ix) Whether the Plaintiffs prove that Defendant No.7 is a trespasser/intruder and is in possession of the suit property as a rank trespasser as alleged in paragraph 24 of the Plaint ?

- (x) Whether Defendant No. 7 proves that Defendant No. 7 is a *bona fide* purchase for value of the Suit property as alleged in paragraph 16 of the Written Statement of Defendant No. 7 ?
- (xi) Whether the Plaintiffs prove that they are entitled to the permanent injunction against the Defendants as prayed for in prayer clause (h) in the plaint?
- (xii) Whether the Plaintiffs prove that Defendant No. 1 has committed breach of trust by purporting to transfer away the Suit property which was entrusted to them for the purpose of housing poor Gujarati and other Catholics ?
- (xiii) Whether it is proved that the letter dated 13.07.1987 was served upon/ received by Dr. Cecil Joseph D'Monte ?
- (xiv) Whether the Plaintiffs prove that they took inspection of the records and proceedings of Suit No. 239 of 1988 filed before the City Civil Court ?
- (xv) Whether the Defendant No.5 proves that all the transactions have taken place in good faith and without any notice about any third/other person in respect of the Suit property ?
- (xvi) What Order ?
- (xvii) What Costs ?

3. Let the Plaintiff within a period of six weeks file an affidavit of examination-in-chief of the Plaintiff's witness alongwith affidavit and compilation of documents duly indexed and paginated and serve the same upon the Defendants alongwith list of Plaintiff's witnesses.

4. Discovery and inspection to be completed within a period of two weeks thereafter.
5. Defendants to file statement(s) of admission and denial within a period of two weeks after that, with copy to the other side.
6. List on **16th June 2026** for marking of Plaintiff's documents.
7. Let the Plaintiff's witness remain present in Court on the next date.

(ABHAY AHUJA, J.)