

अर्ज क्र. : 1919/18

अर्ज दाखल तारीख : 33/4/18

अर्ज नोंदल्याची तारीख : - 3 APR 2018

नक्कल तयार तारीख :

नक्कल अर्ज केली तारीख : - 3 APR 2018

नक्कल ज्योती अर्ज केली त्याचे नाव Adv. A. A. Nadkarni

एकूण पृष्ठसंख्या : 4 पाने

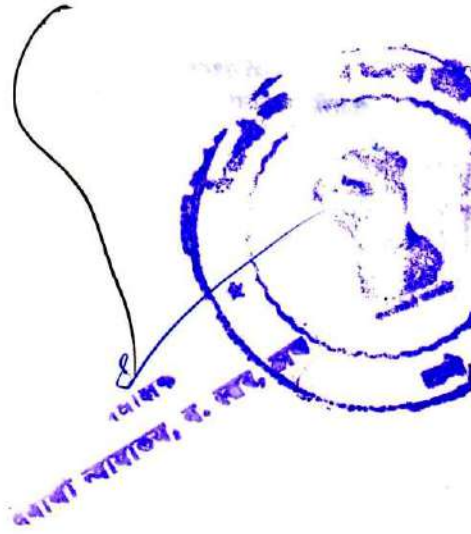
एकूण रक्कम : 282/-

अधिकारीक

दिल्ली न्यायालय, व.स्तर, ठाणे

- 3 APR 2018

১০/১১/১৩
১০/১১/১৩
১০/১১/১৩



264

IN THE HON'BLE COURT OF CIVIL JUDGE, SENIOR DIVISION, THANE
AT THANE

Regular Civil Suit No. 323 of 2005

Shri Bhavarlal Chhaganlal Jain alias Mehta & Others Plaintiffs

Versus

Shri Bharat Pukharaj Jain & Others Defendants

The Humble Application on behalf of the Plaintiffs is as under:

1. Today, the above-mentioned matter is kept for hearing before this Hon'ble Court and thus, the plaintiffs is bringing the factual matrix happened and developed after hearing started in this suit for their subject matter of suit properties, to make clear picture before this Hon'ble Court.
2. It is submitted that the Plaintiffs and Defendants have separately executed and registered agreements and power of attorney in favour of third parties i/e. Defendant No. 6 herein in respect of (A) (i) Suit Property bearing **Old Survey No.96** corresponding New Survey No. 69/1 admeasuring area about **750 sq.mtr.** (ii) Old Survey No. 96 corresponding New Survey No. 69/4 admeasuring area **980 sq.mtr.** (iii) Old Survey No. 96 corresponding New Survey No. 69/6 admeasuring area about **100 sq.mtr.** all (i) to (iii) properties total area about **1,830 sq.mtrs.** situated at Village: ~~Mogharpada~~ ^{Ovale}, Taluka and District: Thane, vide Registered Document Serial Nos. 3919 & 3921 of 2018 both dated 16/03/2018 in the office of Jt. Sub Registrar No. 1, Thane, and similarly also (B) Suit Property bearing **Old Survey No. 194/8** corresponding New Survey No. 92, Hissa Nos. (i) 8/1 area about 3,650 sq.mtr. (ii) 8/2 area about 850 sq.mtr. and (iii) 8/3 area about 500 sq.mtr. totally (i) to (iii) admeasuring area about **5,000 sq.mtrs.** situated at Village: ~~Ovale~~ ^{Bhavenderspada}, Taluka & District: Thane, vide Registered Document Serial Nos. 3288 & 3923 of 2018 both dated 16/03/2018 in the office of Jt. Sub Registrar No. 1, Thane; for their 1/2 undivided suit claim share, ownership title and possession thereof. Hence, in the interest of justice and to avoid any multiplicity of litigations in respect of the above (A) and (B) suit properties mentioned in the plaint with corresponding pleadings and prayers thereof, the plaintiffs may please be permitted to delete and remove from partition and possession suit claim made before this Hon'ble Court accordingly, in the following manners:

2(a) In Paragraph No. 1 (D) Description of Suit Properties at Sr. Nos. 1 to 3 Village: Ovale, Taluka & District: Thane, Old Survey Nos. 96/6, 96/1 and 96/4 having corresponding New Survey Nos. 69/6, 69/1 and 69/4 may please be deleted from subject matter of suit properties;

2(b) In Paragraph No. 1 (E) Description of Suit Properties at Sr. No. 10 Village: Bhayenderpada, Taluka & District: Thane, Old Survey Nos. 194/8, having corresponding New Survey Nos. 92/8 may please be deleted from subject matter of suit properties;

2(c) Paragraph No. 11(A) may please be **deleted** completely.

2(d) Prayer Clause No.15(e)(a) & (b) may please be **deleted** completely.

2(e) Name & particulars of **Defendant No. 8** may please be **deleted**.

3. It is therefore submitted that the plaintiffs are required to make necessary amendments in the suit by deleting all the factual aspect involved and bring it to the notice of this Hon'ble Court. It is submitted that if the application is allowed as prayed no prejudice will cause to the defendants and as such, in the interest of justice and to avoid any further complications and multiplicity of litigations, the plaintiffs prays may please be allowed.

4. It is therefore prayed that:

(a) Application may please be allowed;

(b) Plaintiffs may please be permitted to delete and remove as per **above paragraph no. 02 (a) to (e) proposed amendment in the plaint**, in the interest of justice & equity ;

(c) Any other just and equitable orders in favour of the Plaintiffs may please be passed so as to meets the ends of justice.

THANE

DATED: 20/03/2017

Shri Rajendra Bhavarlal Jain @ Mehta
(Power of Attorney Holder for Plaintiffs)


for Advocate for Plaintiffs

VERIFICATION

I, **Shri Rajendra Bhavarlal Jain alias Mehta**, Age about: 41 years, Occupation: Business and Agriculturist, Having Address At: 419, Mahavir Society, Sahakar Nagar No. 1, Pune-Satara Road, Pune: 411 009, being authorized power of attorney holders for plaintiffs, do hereby states on solemn affirmation / oath that the contents of the above mentioned paragraph nos. 1 to 4 are true and correct to the best of my knowledge, belief and information collected. Hence, this verification in support of submission in the present application is made at Thane on 20/03/2018.


Shri Rajendra Bhavarlal Jain @ Mehta
(Power of Attorney Holder for Plaintiffs)

(CNR No. MHTH02-001718-2005)

R.C.S. 323/2005

Bhavarlal & Ors V/s. Bharat Jain & Ors

(CNR No. MHTH02-001718-2005)

ORDER BELOW EXH.264

1/ By this application, the plaintiff prayed for deletion of name of defendant no.8 and consequently deletion of some paras from the plaint. It is the submission of the plaintiff that the plaintiff and the other defendants have separately executed ~~and~~ registered agreement and power of attorney in favour of defendant no.8 in respect of some of the property. Therefore, the name of defendant no.8 now be deleted.

2/ Defendant no.8 has given no objection for the proposed amendment. Defendant nos. 1, 2 and 4 have filed their say at Exh.271 and defendants no. 3 and 5 have filed their say at Exh. 272. It is their submission that they are not aware about the execution of the registered documents as mentioned by the plaintiff in favour of defendant no.8.

3/ Perused record. Heard both the sides. The plaintiff alongwith application has filed the copy of the Index-II of four registered documents dtd. 16/3/2018 which substantiate their version that registered documents was executed in favour of defendant no.8. As a registered agreement was executed in

(CNR No. MH02-001718-2005)

favour of defendant no.8 who is the third party, his further presence is not required for proceeding with the matter. The proposed amendment ^{is} not changing the nature of the suit. Therefore, it needs to be allowed. Hence, I pass the following order.

ORDER

- 1) The application is allowed.
- 2) The plaintiffs to carry out the amendment within 14 days from the date of this order.
- 3) No order as to costs.

Thane

Date : 02/04/2018

(B.N. Ichpurani)

7th Jt. Civil Judge, S.D.,
Thane.आयाकित करणार
रुजवात करणारखरी प्रत
अधीक्षक
दिवानी न्यायालय व. स्तर ठाणे
3 APR 2018