

DECKEE

Duplicate plaint

(4)

IN THE COURT OF SMALL CAUSES AT MUMBAI

R.A.E. SUIT NO. 853 OF 2023

1. RAVINDRA BANSIDHAR SOMANI)
Age:75 years, Occupation: Business)
2. ADITY PRAVIN SOMANI)
Age:47 years, Occupation: Business)
3. ANIRUDH RAVINDRA SOMANI)
Age:43 years, Occupation: Business)
The Trustees of "Dr.J. K. Somani Public)
Charity Trust", registered under the)
provisions of the Bombay Public Trust Act)
and having their office address at Podar)
House, 4th Floor, "A" Road, Marine Drive,)
Mumbai 400 020.)

... PLAINTIFFS

VERSUS

1. SHOBHA RAVINDRA SOMANI)
Age:75 years, Occupation: Business)
2. PRAVIN RAVINDRA SOMANI)
Age:50 years, Occupation: Business)
3. AARTI ANIRUDH SOMANI)
Age:45 years, Occupation: Business)
The Trustees of "Shree Basantkumar)
Somani Memorial Trust", registered under)



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the provisions of the Bombay Public Trust)
Act and having their address viz. the)
premises on the Ground floor, J.K. Somani)
Building, British Hotel Lane, Bombay)
Samachar Marg, Mumbai-400 023.)

4. M/S. SACHIN ESTATE PVT. LTD.)
A company incorporated and registered)
under the provisions of Companies Act,)
1956 and having its present address at)
Swastik Industrial Estates, 2nd Floor, 178,)
C.S.T. Road, Kalina, Santacruz (East),)
Mumbai 400 098.)

...DEFENDANTS



**SUIT UNDER SECTION 33 FOR RECOVERY OF POSSESSION UNDER THE PROVISIONS OF
SECTION 15, 16(1)(a), 16(1)(b) and 16(1)(e) OF MAHARASHTRA RENT CONTROL ACT, 1999.**

THE PLAINTIFFS ABOVE-NAMED STATE AS UNDER:-

1. The Plaintiffs are the present trustees of "Dr.J. K. Somani Public Charity Trust", registered under the provisions of the Bombay Public Trust Act. The Plaintiffs state that the said trust was created under a Deed of Trust dated 09.10.1965. As such, the Plaintiffs are the owners and the landlords/landladies in respect of the property viz. J.K. Somani Building, British Hotel Lane, Bombay Samachar Marg, Mumbai-400 023, which for the sake of brevity is hereinafter referred to as "THE SUIT BUILDING".



2. The Plaintiffs state that the Defendant Nos.1 to 3 are the present trustees "Shree Basantkumar Somani Memorial Trust". The Plaintiffs state that the Defendant Nos.1 to 3 are the tenants of the Plaintiffs being the trustees of "Shree Basantkumar Memorial Trust" in respect of the premises viz. the premises on the First floor, admeasuring 576.10 sq. ft., J.K. Somani Building, British Hotel Lane, Bombay Samachar Marg, Mumbai-400 023, which for the sake of brevity is hereinafter referred to as **"THE SUIT PREMISES"**. The suit premises is more particularly described in the schedule at **ANNEXURE "A"** annexed to the present suit.

3. The Plaintiffs state that the Defendant No.4 is the lawful sub-tenant of the Plaintiffs and the tenant of Defendant Nos.1 to 3 {Being the Trustees of "Shree Basantkumar Somani Memorial Trust"} in respect of the suit premises. The Plaintiffs state that by an agreement dated 21.08.1995, executed between the then trustees of Shree Basantkumar Memorial Trust of one part and the Defendant No.4 being the party of the other part to the said agreement, the sub-tenancy in respect of the suit premises was created. The Plaintiffs crave leave to refer to and rely upon the said agreement dated 21.08.1995, as and when produced.

4. The Plaintiffs state that the Plaintiffs have one premises on the ground floor of the suit building. The Plaintiffs have also let out one premises on the ground floor of the suit building to one Mr.M. N. Agarwal. The Plaintiffs state that the Plaintiffs have created rest of the different tenancies in favour of the Defendants No.1 to 3 {Being the Trustees of "Shree Basantkumar Somani Memorial Trust"} in respect of the premises on the ground, first, second and third

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floor of the suit building. For the sake of convenience and mutual understanding, since past several years, the Plaintiffs have been issuing composite debit note for the said tenancies in the suit building in favour of Defendant No.1 to 3. The monthly rent of the suit premises is Rs.124/-. Hereto annexed and marked as **ANNEXURE "B"** is the copy of the rent bill/debit note in respect of the Suit Premises.

5. The Plaintiffs state that the suit building consisted of ground plus part mezzanine floor plus three upper floor plus part attic floor. The Plaintiffs state that the structure of the suit building is/was load bearing structure with load bearing wall, brick wall masonry and wooden column in second and third floor and "I" section beams and joists on ground floor and first floor. The Plaintiffs state that unfortunately on 30.11.2016, the office premises on the second floor of the suit building occupied by one M/s.Systematix Shares and Stocks (I) Ltd. caught in the fire. Thereafter, due to explosions of AC compressors, LPG cylinder blast and due to other factors, the said fire could not be controlled and extinguished, when the same was started in the said premises and it started shooting out to the other parts of the suit building immediately. The Plaintiffs state that the said fire started spreading to the remaining offices on the second floor of the suit building as well as it also started spreading on the other floors of the suit building including first and third floor of the suit building.



6. The Plaintiffs state that the spreading of the fire was so huge that the other floors of the suit building were, thereafter, affected badly and practically the same were completely burned out. The Plaintiffs state that immediately thereafter, due to the said unfortunate incidence fire, the BEST issued a letter dated

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07.12.2016 to the Plaintiff's trust intimating that the supply of the six number of meters, as more particularly mentioned in the said letter in the suit building, have been disconnected by the BEST on 07.12.2016, due to the reason of fire and also due to the other reasons assigned in the said letter dated 07.12.2016. The Plaintiffs crave leave to and rely upon the said letter dated 07.12.2016, as and when produced.

7. The Plaintiffs state that, thereafter, by letter dated 23.12.2016, the Plaintiffs engaged the services of an Architect viz. Shashank Mehendale and Associates to carry out Structural Audit of the suit building. The Plaintiffs state that due to the fact that the part of the building was destroyed in a major fire occurred on 30.11.2016 and therefore, to consider the effect of the said fire on the building and the measures required to be taken by the Plaintiffs, after the said incidence of fire, the services of the said Architect was hired. The Plaintiffs state that the Architect visited and inspected the suit building. The Plaintiffs state that during the said visit, detailed inspection of the suit building was taken by the Architect and other factors about the repairs, reconstructions of the suit building were also considered during the said visit and inspection of the suit building by the Architect. The Plaintiffs state that the necessary photographs from all the angles of the suit building were also captured by the Architect.

8. The Plaintiffs state that after the detailed inspection of the suit building by the Architect was carried out, he opined that the suit building with originally wooden members have deteriorated badly. The part of the building has collapsed due to the fire. A third floor and the attic floor is burned entirely and



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collapsed on second floor in part. The said Architect report opined that considering the condition of the standing part of the structure and the close proximity to the neighbouring structure, it is recommended to dismantle the damage part of the structure carefully. The said report also stated that it is recommended not to occupy the structure until repairs and part reconstruction along with the strengthening suggested in remedial measures is completed in totality. The said report also suggested that considering the partially dilapidated condition of the building, the Plaintiffs can demolish the building carefully and reconstruct to obey better planning and codal compliance.

9. The Plaintiffs state that the said report also opined that during such period, the building shall be closely monitored, and in science of settlement, deflection, active cracking, problems in opening and closing doors and windows, dust falling from structure shall be informed to the Architect as well as concerned ward office immediately, so that immediate steps can be taken up. The said report strictly denied to carry out work of merely covering up the cracks and repairing of paint/lambi, POP etc. cement plaster while painting etc. and suggested that load bearing wall, RSJ, ladi coba, rust to be removed and painted with intumescent paint. The said report also suggested that part demolition and clearing debris and loose hanging out of plumb element should be done immediately, balance vacated structure should be stabilized by propping wherever required. The Plaintiffs state that the said report in detail also suggested other remedial measures and the condition of the suit building in detail. The Plaintiffs crave leave to refer to and rely upon the letter dated 12.01.2017, addressed by the Shashank Mehendale and



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Associates enclosing the structural Audit Report in respect of the suit building, as and when produced.

10. The Plaintiffs state that after the incidence of said fire, the Fire Brigade Department of the Municipal Corporation of Greater Mumbai prepared a Fire Investigation Report dated 02.02.2017, in respect of the suit building. The Plaintiffs crave leave to refer to and rely upon the said Fire Investigation Report dated 02.02.2017, issued by the Municipal Corporation of Greater Mumbai, as and when produced.

11. The Plaintiffs state that the Municipal Corporation of Greater Mumbai issued a notice dated 28.04.2017, to the Plaintiffs under Section 354 of the Municipal Corporation Act, 1888 for the compliance of requisitions, as more particularly contained in the said notice. The Plaintiffs state that the said notice at the foot bear the note and the said note at point No.1 pointed out that the rooms any, occupied shall be vacated immediately, after making proper alternate accommodation arrangement for the existing occupants. The said note also stated that making alternate accommodation arrangement for the existing occupants shall be solely owners' responsibility. The Plaintiffs crave leave to refer to and rely upon the said notice dated 28.04.2017, as and when produced.

12. The Plaintiffs state that in response to the notice dated 28.04.2017 issued by the Municipal Corporation of Greater Mumbai, the Plaintiffs' trust replied by letter dated 08.05.2017 to the Assistance Engineer (Building and Factory) A-ward of Municipal Corporation of Greater Mumbai. The Plaintiffs state that apart



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from the other fact the said letter in particular also replied to the contents of the note No.1 about providing alternate accommodation to the existing occupants. The Plaintiffs state that the Plaintiffs informed that building has been vacated, since the fire took place, as the building was rendered unfit for human habitation and that no occupants remains in the building to be rehoused. Therefore, the said Authority was requested to inform whether the Plaintiffs are required to alter their course of action, which has been directed by the Municipal Corporation of Greater Mumbai in the said notice dated 28.04.2017. The Plaintiffs crave leave to refer to and rely upon the copy of the said letter dated 08.05.2017, addressed by the Plaintiffs' trust to the Municipal Corporation of Greater Mumbai, as and when produced.

13. The Plaintiffs state that after the issuance of the said notice dated 28.04.2017, some of the occupants of the suit building have challenged the validity and legality of said notice by filing suits in the Hon'ble City Civil Court, Mumbai. The Plaintiffs state that the said occupants did not get any reliefs, as prayed for in the Notice of Motion filed in the said suit. The said Order was also unsuccessfully challenged by the occupants of the suit building by filing Writ Petition in the Hon'ble High Court.

14. The Plaintiffs state that the sub-tenants of the said building claiming to have allegedly formed their association viz. J.K.Somani Tenants' Association. The Plaintiffs state that by letter dated 29.04.2019 addressed by Advocate for the said J.K. Somani Tenants Association to the Plaintiff's trust to carry out work of

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reconstruction in the suit building. The Plaintiffs crave leave to refer to and rely upon the said letter dated 29.07.2019, as and when produced.

15. The Plaintiffs state that again on 23.08.2020, one Mr. Sanket M. Mungale, the Advocate for the J.K.Somani Tenants' Association addressed a letter to the Plaintiffs' trust and unlawfully called upon to comply with the requisition contained in the incorrect and false grounds. The Plaintiffs crave leave to refer to and rely upon the copy of the said letter dated 23.08.2020, as and when produced.

16. The Plaintiffs state that from the records, as narrated hereinabove and from the statutory reports and notices referred in the Plaint, it is crystal clear that the said building is beyond repairable and need to be rebuilt, after the unfortunate incidence of the fire, which took place on 30.11.2016. The Plaintiffs state that thereafter, the respective occupants in the suit building have already vacated their respective premises and the entire suit building is lying vacant, since the date of occurrence of the fire in the suit building. All the occupants have obtained their suitable alternative accommodation for their respective businesses and have been carrying on their business activities from the said premises suitably and conveniently much prior to the incidence of the fire. The Plaintiffs state that as far as the issuance of the notices by the alleged J.K. Somani Tenants' Association through their Advocate's letters dated 29.07.2019 & 23.08.2020, as referred in the earlier paragraph are concerned are issued just to create false and frivolous evidence against the Plaintiffs without any basis and without any legal right to claim the requisitions contained in the said notices.



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17. The Plaintiffs state that as per the provisions of law and the terms of the tenancy, the Defendant No.1 to 3 (being the trustees of the Basantkumar Trust) and the Defendant No.4 also were not entitled to further transfer and/or part with the possession or create any third party interest, in respect of the Suit Premises or any part thereof, in favour of any persons by any means or modes without obtaining the prior written consent or permission of the Plaintiffs (being the present trustees of the J.K. Somani Trust).

18. That in spite of the same, the Plaintiffs state that the Defendant No.1 to 3 (being the trustees of the Basantkumar Trust) and the Defendant No. 4 somewhere in the year 2014, unlawfully sublet, transferred and/or parted with the possession of the Suit Premises and/or created third party interests in the Suit Premises in favour of some third party. The Plaintiffs, therefore, state and submit that the Defendant No.1 to 3 (being the trustees of the Basantkumar Trust) and the Defendant No.4 have lost the protection of the Maharashtra Rent Control Act, 1999. Therefore, the Defendants are liable to be evicted from the suit premises under the provisions of Section 16(1)(e) of the Maharashtra Rent Control Act, 1999.



19. The Plaintiffs state that the Defendant No.1 to 3 were not entitled to carry out additions or alterations of the permanent in nature in the suit premises, without obtaining the written consent or permission of the Plaintiffs. The Defendant No.4 has carried out additions or alterations of the permanent in nature in the suit premises, without obtaining the written consent or permission of the Plaintiffs. The Plaintiffs, therefore, state and submit that the Defendant No.1 to 3 have lost the

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protection of the provisions of the Maharashtra Rent Control Act, 1999 and the Defendants are liable to handover quiet, vacant, and peaceful possession of the suit premises to the Plaintiffs. The Plaintiffs, therefore, state and submit that the Plaintiffs are entitled to recover the possession of the suit premises from the Defendants under Section 16(1)(b) of the Maharashtra Rent Control Act, 1999.

20. The Plaintiffs state that the Defendant No.4 has damaged the suit premises, while carrying out additions or alterations of permanent in nature in the suit premises. The Plaintiffs state that the Defendant No.1 to 3 have failed to use the suit premises, as a man of ordinary prudence. The Plaintiffs, therefore, submit that the Defendant No.1 to 3 have caused waste to the suit premises and lost the protection of the provisions of the Maharashtra Rent Control Act, 1999 and the Defendants are liable to handover quiet, vacant, and peaceful possession of the suit premises to the Plaintiffs. The Plaintiffs, therefore, state and submit that the Plaintiffs are entitled to recover the possession of the suit premises from the Defendants under Section 16(1)(a) of the Maharashtra Rent Control Act, 1999 read with Section 108 of Transfer of Property Act, 1888.

21. The Plaintiffs state that the Defendant No.1 to 3 have breached the terms and conditions of the tenancy. The Defendant No.1 to 3 have also failed to observe and perform the terms and conditions of the tenancy and also the provisions of the Maharashtra Rent Control Act, 1999. The Defendants have failed to use the suit premises as a man of ordinary prudence. The Plaintiffs are therefore entitled to recover the possession of the suit premises under Section 15 of Maharashtra Rent Control Act, 1999. Therefore, the Defendants are liable to be

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evicted from the suit premises under the provisions of Section 15 of the Maharashtra Rent Control Act, 1999.

22. The Plaintiffs, therefore, seek to recover from the Defendants quiet, vacant and peaceful possession of the suit premises viz. the premises on the First floor, admeasuring 576.10 sq. ft., J.K. Somani Building, British Hotel Lane, Bombay Samachar Marg, Mumbai-400 023.

23. The Plaintiffs states that the Plaintiffs are entitled to inspect the suit premises, as per the provisions of Section 28 of the Maharashtra Rent Control Act, 1999. The Plaintiffs, therefore, submit that it is just, proper and absolutely necessary and in the interest of justice and equity to allow the Plaintiffs to visit and inspect the suit premises to ascertain the present condition, use and occupation of the suit premises. The Plaintiffs further pray that the Hon'ble Court may also allow the Architect of the Plaintiffs to visit and inspect the suit premises along with the authorized person of the Plaintiffs and to allow him and/or his assistant to take photographs and also to measure the suit premises and submit his report and photographs to the Hon'ble Court, in order to help the Hon'ble Court to get full and complete picture of the suit premises, and thereby to fully and effectually adjudicate the suit and all incidental relief's.



24. The Plaintiffs state Plaintiffs have grave apprehension that after filing of the present suit against the Defendants, the Defendants either independently or in collusion with each other may create third party interest in respect of the suit premises in any manner whatsoever in order to frustrate the claim of the Plaintiffs.

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The Plaintiffs state that the Plaintiffs have, therefore, grave apprehension that after filing of the present suit against the Defendants, the Defendants may illegally or unlawfully create further interest in respect of the suit premises by any means and modes in favour of the third party.

25. The Plaintiffs, therefore, submit that it is just, proper and absolutely necessary and in order to protect the suit premises from being sublet, transferred or alienated in favour of third person in order to maintain the status quo and also to avoid the multiplicity of the proceedings, it is just and proper and also absolutely necessary that the Defendants, their servants, agents or any persons claiming through or under them be permanently restrained by an order and injunction of this Hon'ble Court from dealing with, disposing off, alienating, transferring or parting with the use, occupation and/or possession of the suit premises or any part thereof or from inducting any third party in the suit premises in any manner whatsoever.

26. The Plaintiffs submits that it is just, proper and absolutely necessary and in the interest of justice and equity to appoint a Court Commissioner to visit and inspect the suit premises to ascertain present condition, use and occupation of the suit premises and take photographs and also to measure the suit premises and submit his report and photographs to the Hon'ble Court in order to help the Hon'ble Court to get full and complete picture of the suit premises and thereby to fully and effectually adjudicate the suit and all incidental relief's

27. The Plaintiffs state and submit that Plaintiffs have grave apprehension that the Defendants are likely to create any third party interest in

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respect of the suit premises in favour of third party by any means and modes as more particularly setout and described hereinabove. The Plaintiffs, therefore, submit that in order to protect the suit premises from being sublet, transferred or alienated in favour of third person or in order to maintain the status quo and to avoid multiplicity of proceedings and/or to avoid waste to the suit premises, it is just, proper, necessary and in the interest of justice and equity that pending the hearing and final disposal of the present suit, a suitable person be appointed as the Court Receiver in respect of the suit premises with all power under Order 40 Rule 1 of the Code of Civil Procedure, 1908.

28. The Plaintiffs submit that Plaintiffs have prima-facie good case to succeed at the trial. The balance of convenience is also in favour of the Plaintiffs. The Plaintiffs therefore submit that pending the hearing and final disposal of the present suit, the Plaintiffs are entitled to get ad-interim and interim orders and relief's in terms as aforesaid.

29. The Plaintiffs submit that Plaintiffs are entitled to recover quiet, vacant and peaceful possession of the suit premises viz. the premises on the First floor, admeasuring 576.10 sq. ft., J.K. Somani Building, British Hotel Lane, Bombay Samachar Marg, Mumbai-400 023 from the Defendants on the aforesaid grounds.

30. The Plaintiffs, therefore, submit that by granting the aforesaid orders and reliefs, no harm, loss or prejudice would cause to the Defendants, while not





granting the aforesaid orders and reliefs, grave harm, loss and prejudice would cause to the Plaintiffs, which cannot be compensated in terms of money.

31. The suit is between the landlords and tenants relating to recovery of possession of the suit premises situated at Mumbai. The cause of action has arisen in Mumbai. Therefore, this Hon'ble Court has exclusive jurisdiction to entertain and try the present suit under the provisions of Section 33 of the Maharashtra Rent Control Act, 1999.

32. The Plaintiffs value the suit claim of Rs.1,488/- being annual rack rent of the suit premises based on monthly rent of Rs.124/- for prayer (a) and pays the Court fees thereon as per Section 6(xii)(d) of the Bombay Court Act. The Plaintiffs have paid the Court fees accordingly. The Plaintiffs undertake to pay additional court fees as may be required under the law in respect of the mesne profit, when determined.

33. The Plaintiffs state that the suit premises or any part thereof is not covered by the Maharashtra Slums Acts (I.C. & R) Act.

34. The Plaintiffs state that the Plaintiffs' claim is within time.

35. The Plaintiffs shall rely upon documents, a list whereof is annexed hereto.

THE PLAINTIFFS, THEREFORE, PRAY THAT: -

- (19) *MS* *S*
- (a) Defendants be ordered and decreed to quit, vacate and handover, quiet, vacant and peaceful possession of the suit premises viz. the premises on the First floor, admeasuring 576.10 sq. ft., J.K. Somani Building, British Hotel Lane, Bombay Samachar Marg, Mumbai-400 023 to the Plaintiffs;
 - (b) the Hon'ble Court may institute an inquiry under Order 20, Rule 12 of C.P.C., 1908 for determination of mesne profits in respect of suit premises viz. the premises on the First floor, admeasuring 576.10 sq. ft., J.K. Somani Building, British Hotel Lane, Bombay Samachar Marg, Mumbai-400 023;
 - (c) Pending the hearing and final disposal of suit, the Hon'ble Court may be pleased to appoint a Commissioner to visit and inspect the suit premises to ascertain the present condition, use and occupation of the suit premises and take photographs and also to measure the suit premises and submit his report and photographs to the Hon'ble Court viz. the premises on the First floor, admeasuring 576.10 sq. ft., J.K. Somani Building, British Hotel Lane, Bombay Samachar Marg, Mumbai-400 023;
 - (d) Pending the hearing and final disposal of suit, the Hon'ble Court may be pleased to allow the authorized person of the Plaintiffs alongwith their architect and its assistant to visit and inspect the suit premises viz. the premises on the First floor, admeasuring 576.10 sq. ft., J.K. Somani Building, British Hotel Lane, Bombay Samachar Marg, Mumbai-400 023, to ascertain present condition, use and occupation of the suit premises and to take measurements and photographs and submit his report and photographs to the Hon'ble Court in order to help the Hon'ble Court to get
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full and complete picture of the suit premises and thereby to fully and effectually adjudicate the suit and all incidental reliefs.

- (e) Pending the hearing and final disposal of the suit, some fit and proper person be appointed as Court Receiver in respect of suit premises viz. the premises on the First floor, admeasuring 576.10 sq. ft., J.K. Somani Building, British Hotel Lane, Bombay Samachar Marg, Mumbai-400 023;
- (f) pending the hearing and final disposal of the suit, the Defendants, their servants, agents or persons claiming through or under them be restrained by an order and injunction of this Hon'ble Court from unlawfully disposing off, subletting, transferring or alienating, assigning or parting with the use, occupation or possession of the suit premises or from inducting any third party therein or from creating any third party rights, claim and interest in any manners whatsoever in the suit premises viz. the premises on the First floor, admeasuring 576.10 sq. ft., J.K. Somani Building, British Hotel Lane, Bombay Samachar Marg, Mumbai-400 023;
- (g) Pending the hearing and final disposal of the suit, the Defendants, their servants, agents or any persons claiming through or under them be restrained by an order and injunction of this Hon'ble Court to carry out any additions and alterations of structural nature or to carry out any repairs of whatsoever in nature in the suit premises or to maintain the status quo in respect of the suit premises or any part thereof viz. the premises on the First floor, admeasuring 576.10 sq. ft., J.K. Somani Building, British Hotel Lane, Bombay Samachar Marg, Mumbai-400 023;

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- (h) Interim and ad-interim reliefs in terms of the prayer clauses (c) to (f) hereinabove may be granted;
- (i) cost of the suit be provided for;
- (j) such other and further reliefs as the nature and circumstances of the case may require be granted;

Plaint Drawn by me

Meechum

Advocate for Plaintiffs

1. *N.S.*
 2. *Somani*
 3. *S. S. S. S.*
- Plaintiffs

VERIFICATION

I, RAVINDRA BANSIDHAR SOMANI, the Plaintiff No.1 above-named, do hereby state on solemn affirmation that whatever stated in the foregoing paras of this Plaint is true to my own knowledge, save and except legal submission and I believe the same to be true and correct.



Solemnly affirmed at Mumbai)

This day of June, 2023)

Meechum

Advocates for the Plaintiffs

Presented today as on

Meechum

Adv. for plaintiffs.

Before me, *N.S.*
Solemnly affirmed before me
Ravindra Bansidhar Somani
Who is identified by
Author No. 818520097697
whom I

This 28, June 2023
28.6.23
(S.S. S. S.)

Small Causes Court
Mumbai 400 002



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RAE Suit No. 853 of 2023

1. Ravindra Somani V/s. 1. Shobha Somani

IN THE COURT OF SMALL CAUSES AT MUMBAI.

R.A.E. SUIT NO. 853 OF 2023

CNR NO. MHSCA20013522023

Coram: Shri. S. N. Godbole
Judge, C.R.No.11

Date: 06/09/2023

Claim: Rs. 1488=00

CONSENT DECREE

This suit came on board on this 6th September, 2023 for filing consent terms, before Id. Judge Shri. S. N. Godbole of C.R. No. 11, in the presence of plaintiff and Id. Advocate for Plaintiff, defendant No. 1 to 3 and advocate, defendant No. 4 and advocate.

It is ordered that,

1. Suit is decreed in terms of Consent Terms Exh. 22.
2. Decree be drawn up accordingly, as per Consent Terms Exhibit 22.
3. Court fee be refunded as per rules.

Sd/-

Mumbai
Dt. 06.09.2023

(Shri. S. N. Godbole),
Judge, C.R.No. 11

(Copy of consent terms attached herewith.)



/home/clerk11/Desktop/Desktop Bup 23/COURT ROOM NO. 11 - final/DECREE/Decree 2023/9 Sep 2023
CR No. 11/RAE 858 OF 2023 .odt

IN THE COURT OF SMALL CAUSES AT MUMBAI

R.A.E. SUIT NO.853 OF 2023

1. RAVINDRA BANSIDHAR SOMANI)
Age:75 years, Occupation: Business)
2. ADITY PRAVIN SOMANI)
Age:47 years, Occupation: Business)
3. ANIRUDH RAVINDRA SOMANI)
Age:43 years, Occupation: Business)
The Trustees of "Dr.J. K. Somani Public)
Charity Trust", registered under the)
provisions of the Bombay Public Trust Act)
and having their office address at Podar)
House, 4th Floor, "A" Road, Marine Drive,)
Mumbai 400 020.) ... PLAINTIFFS

VERSUS

1. SHOBHA RAVINDRA SOMANI)
Age:75 years, Occupation: Business)
2. PRAVIN RAVINDRA SOMANI)
Age:50 years, Occupation: Business)
3. AARTI ANIRUDH SOMANI)
Age:45 years, Occupation: Business)




The Trustees of "Shree Basantkumar)
Somani Memorial Trust", registered under)
the provisions of the Bombay Public Trust)
Act and having their address viz. the)
premises on the Ground floor, J.K.)
Somani Building, British Hotel Lane,)
Bombay Samachar Marg, Mumbai-400)
023.

4. M/S. SACHIN ESTATE PVT. LTD.)
A company incorporated and registered)
under the provisions of Companies Act,)
1956 and having its present address at)
Swastik Industrial Estates, 2nd Floor, 178,)
C.S.T. Road, Kalina, Santacruz (East),)
Mumbai 400 098.)

...DEFENDANTS

CONSENT TERMS

1. The Plaintiffs and the Defendants have agreed to settle the above suit on the following terms and conditions, as agreed by and between the parties to the above suit.
2. The Defendant No.4 admits and agrees to the ground of eviction being unlawful sub-letting as pleaded by the Plaintiffs in the Plaint.

3. The Defendant No.4 admits, agrees and concedes that it is liable to handover the possession of the suit premises. The Defendant No.4, therefore, submits to a decree of eviction in terms of prayer clause (a) of the Plaint. The Defendant No.4 be ordered and decreed to handover the possession of the suit premises viz. the premises on the First floor, admeasuring 576.10 sq. ft., J.K. Somani Building, British Hotel Lane, Bombay Samachar Marg, Mumbai-400 023, to the Defendant No.1 to 3.

4. Upon passing a decree of eviction against the Defendant No.4, the Plaintiffs and the Defendants all confirm that the Defendant No.1 to 3 are the monthly tenants of the suit premises and continue to be the monthly tenants of the Plaintiffs.

5. The Defendant No.4 has agreed, confirmed, declared and undertaken that it will neither claim any right, title or interest including the tenancy rights in respect of the suit premises nor any person claiming through or under it will claim or will be entitled to any right, title or interest including the sub-tenancy rights against the Plaintiffs and the tenancy rights against the Defendant No.1 to 3 in respect of the suit premises.

6. The Defendant No.4 admits, declares, concedes and undertakes to the Hon'ble Court that upon execution of the present Consent Terms, the Articles of Agreement dated 21.08.1995 executed between the then trustees of 'Shree Basankumar Somani Memorial Trust' ("**Basantkumar Trust**") has come to an end. The Defendant No.4 admits, declares, concedes and undertakes to the



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 Hon'ble Court that the Defendant No.4 shall not be entitled to any right and/or benefits under the said Articles of Agreement dated 21.08.1995 or any rights or benefits arising out of the said agreement in future also from the Defendant No.1 to 3 or from the Plaintiffs. Similarly, the Plaintiffs and the Defendant No.1 to 3 admit, declare, concede and undertake to the Hon'ble Court that upon execution of the present Consent Terms, the Defendant No.4 stands absolved off and shall not be held liable for any liability arising out of (a) the said Article of Agreement dated 21.08.1995 and (b) in respect of the suit premises and (c) any claims arising out of the present Suit including but not limited to claims towards Mesne Profits.

7. The Defendant No.1 to 3 (the present trustees of Basantkumar Trust) have refunded to the Defendant No.4, a deposit amounting to Rs.2,00,000/- (Rupees Two Lakh Only), vide Cheque bearing Number 000754 dated 05.09.2023 drawn on Kotak Mahindra Bank in favour of Defendant No.4, which the Defendant No.4 had paid to the then trustees of said Basantkumar Trust, under the Article of Agreement dated 21.08.1995. Further the Defendant No.1 to 3, shall simultaneously upon execution of the present consent terms, pay unto Defendant No.4, a sum of Rs.30,00,000/- (Rupees Thirty Lakh Only), vide Cheque bearing Number 000759 dated 05.09.2023 drawn on Kotak Mahindra Bank in favour of Defendant No.4, in lieu of hardship compensation, as Defendant No.4 has represented that upon admitting to the grounds of recovery of possession of the suit premise, it would be made to suffer losses. Hence, the Defendant No.1 to 3, keeping in mind the amicable relationship with the





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Defendant No.4, has agreed to pay hardship compensation to Defendant No.4, upon execution of the present consent terms to make good the said loss.

8. The Plaintiffs further admits, declares and concedes that nothing is due and payable by the Defendants in respect of the suit premises to the Plaintiffs and all the accounts amongst the Plaintiffs and the Defendant No.1 to 3 and the Defendant No.4 are settled between the parties in respect of suit premises upon execution of the present Consent Terms. The Plaintiffs and the Defendant No.1 to 3 further undertake not to make any future claim particularly against Defendant No.4 of whatsoever nature on account of suit premises.


9. The Defendant No.4 declares that the Defendant No.4 alongwith other tenants/sub-tenants of the suit building have formed an Association being "J. K. Somani Tenants' Association", which for the sake of brevity is hereinafter referred to as "the said Association". The Defendant No.4 admits, declares, concedes and undertakes to the Hon'ble Court that upon signing and filing the Consent Terms in the above matter, the Defendant No.4 shall cease to be member of the said Association. The Defendant No.4 also undertakes to the Hon'ble Court that the Defendant No.4 shall make all necessary steps to give effect that the Defendant No.4 shall cease to be member of the said Association. In addition thereto, the Defendant No.4 shall write a letter to the said Association as well as the Plaintiffs intimating the said facts. Hereto annexed and marked as **ANNEXURE "A"** is the copy of the said letter dated 05.09.2023.


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10. The Defendant No.4 also undertakes to the Hon'ble Court that the Defendant No.4 shall not participate either directly or indirectly as a member of the said Association or in any other capacity in Writ Petition No.22430 of 2022 filed against Municipal Corporation of Greater Mumbai and Ors. in the Hon'ble High Court.

11. The Defendant No.4 further undertakes to the Hon'ble Court that the Defendant No.4 shall also not claim either as a member of the said Association or as a representative of the said Association or as Defendant No.4 or in any other capacity any right, title or interest in the suit premises or any rights arising out of the suit premises against the Plaintiffs and the Defendant No.1 to 3 and the Defendant No.5.

12. The parties to present suit hereby pray that the Hon'ble Court may record the acceptance of the undertaking given by the parties to the suit.

13. The parties to the suit hereby pray to this Hon'ble Court that Decree of eviction against the Defendant No.4 in terms of these Consent terms may be passed by this Hon'ble Court, with no order as to costs.

14. The Plaintiffs have passed a resolution in the meeting of the trustees of the Plaintiffs' trust authorising the Plaintiff No.1 and 3 to sign and file consent terms in the suit. Hereto annexed and marked as **ANNEXURE-B** is the copy of the resolution dated 04.09.2023.




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15. The Defendant No.4 has authorised Mr. Pravin R. Gupta to sign and file the present consent terms in the suit. Hereto annexed and marked as **ANNEXURE-C** is the copy of the resolution dated 01.09.2023.

Mumbai dated this 6th day of September, 2023

Plaintiff No.1



Plaintiff No.2



Plaintiff No.3



Defendant No.1



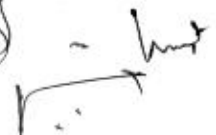
Defendant No.2



Defendant No.3

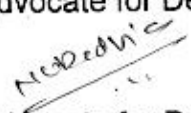


Defendant No.4




Advocate for Plaintiffs


Advocate for Defendant No.1 to 3


Advocate for Defendant No.4



RAE Suit No. 853 of 2023

1. Ravindra Somani V/s. 1. Shobha Somani

BILL OF COST

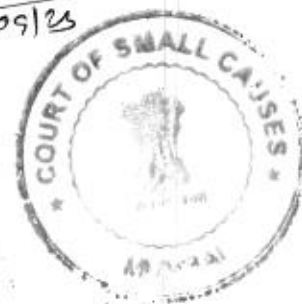
SR. NO.	PARTICULARS	PLAINTIFF RS. PS.	DEFENDANT RS. PS.
1	STAMP ON PLAINT	260=00	
2	STAMP ON VP	10=00	20=00
3	STAMP ON APPL/EXHS.	20=00	10=00
4	PLEADER'S FEE	112=00	112=00
5	COMMISSIONER'S FEE		
6	SUBSISTENCE OF WITNESS		
7	SERVICE OF PROCESS	15=00	
TOTAL		417=00	142=00

Given under my hand and Seal of the Hon'ble Court.

This 06th day of September, 2023.

(Shri. S. N. Godbole),
Judge, C.R.11

Judicial Clerk : Smt. J.D. Sangelkar
Advocate for Plaintiffs : Shri. Gaurang K. Mehta
Advocates for Deft. No. 1 to 3 : Shri. Vinay Khandelwal
Advocates for Deft. No. 4 : Shri. N. U. Dedhia
Prepared by : S.G. Maindargi, Clerk-Typist



(Maindargi)
15/09/23