

Vidya Amin

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

CIVIL APPLICATION NO. 1698 OF 2015
IN
FIRST APPEAL NO. 466 OF 2010

Akhil Bhartvarshiya Marwari Agarwal
Jatiya Kosh & Ors.

... Applicants

Vs.

Brijlal Tibrewal & Ors.

... Respondents

Mr. Atul Damle, Senior Advocate with Mr. Vivek Kantawala and Mr. Amey Patil i/b. Vivek Kantawala & Co., Advocate for the applicants.

Mr. Navin Parekh a/w. Mr. Ashok Saraogi i/b. Mr. Ashok M. Saraogi, Advocate for the respondents.

Mr. A.V. Diwate, Advocate for BMC.

CORAM: **MRS.MRIDULA BHATKAR, J.**
(In Chamber)

DATE : **JULY 4, 2015**

P.C.:

This Civil Application is moved praying that the order dated 23rd December, 2014 passed by this Court wherein the area 2700 sq. mtrs. is to be modified to the extent of 1009 sq. mtrs. or 1205 sq. yards.

2. The learned counsel for the parties are present, as the matter was agreed to be heard on 4th July, 2015 (staff working Saturday).

3. On hearing the learned senior counsel for the applicants and learned counsel for the respondent and on perusal of the earlier order dated 4th December, 2014 especially paragraph 9 last portion, I am of the

view that no modification in respect of the area mentioned in the order 23rd December, 2014 is required. Hence, the Application is dismissed. However, in order to avoid further ambiguity and legal complication, it is necessary to clarify that as mentioned in paragraph 9(i) of the order dated 4th December, 2014, the applicants/original appellants is entitled to consume balance FSI of the plot of land, as per Certificate of Architect Exhibit 8 (Page 40 of Civil Application), is 1194.95 sq mtrs. at any time.

MRS.MRIDULA BHATKAR, J.)