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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

APPEAL FROM ORDER NO.663 OF 2015
IN
NOTICE OF MOTION NO.2346 OF 2014
IN
S.C. UIT NO.3373 OF 2013

WITH
CIVIL APPLICATION NO.813 OF 2015
IN
APPEAL FROM ORDER NO.663 OF 2015
IN
NOTICE OF MOTION NO.2346 OF 2014
IN
S.C. UIT NO.3373 OF 2013

Arun Kumar	...Appellant
V/s.	
Vinod Kumar & Ors.	...Respondents

Mr.P.S. Dani, Senior Counsel with Mr.Rajesh Singh i/b Legal Liaisons
for the Appellant.

Mr.Vishal Kanade with Mr.P.M. Thakur i/b Dave & Co. for the
Respondent No.1.

Mr.Ajay Omprakash Kumar – Respondent No.2 present in person.

Ms.Prachi Mhatre i/b Shiralkar & Co. for the Respondent No.3.

CORAM : R.D. DHANUKA, J.
DATE : 23RD NOVEMBER, 2015.

P.C. :-

1. By consent of parties, the following order is passed :-

a). The appellant can apply for amendment of the plaint and seek appropriate relief for recovery of share in the amount deposited by the developer payable under the development agreement entered into between the developer and the respondent no.1 and for other appropriate relief as is permissible in law. If any such application for amendment is made, the same can be decided by the trial Judge on its own merits.

b). The appellant will have liberty to apply for interim reliefs if any such amendment as sought to be made by the appellant is permitted by the learned trial Judge for the interim reliefs, including for the reliefs which were subject to Notice of Motion No.2346 of 2013. The trial Court shall dispose of the fresh notice of motion in accordance with law and without being influenced by the order passed by the trial Judge on 4th April, 2015.

c). Insofar as Notice of Motion No.1901 of 2015 filed by the respondent no.1 in Notice of Motion no.3735 of 2013 is concerned, Mr.Kanade, learned counsel for the respondent no.1 has no objection if the said notice of motion is heard along with the notice of motion which is proposed to be filed by the appellant after appropriate amendment if is permitted by the learned trial Judge. It is made clear that if for any reason the amendment is not permitted, the respondent no.1 would be permitted to proceed with the notice of motion filed by

the respondent no.1 before the trial Court independently.

d). The appellant has agreed to make appropriate application for seeking amendment within three weeks from today. Both the parties have agreed not to take unnecessary adjournment before the learned trial Court. Reply, if any, by the respondent no.1 or other contesting respondents to such application for amendment shall be filed within two weeks from the date of service of the notice of motion.

e). The learned trial Court is directed to dispose of the application for amendment and the notice of motion if filed by the appellant herein expeditiously.

2. All the contentions of both the parties are kept open.

3. The appeal from order is accordingly disposed of in aforesaid terms. Impugned order passed in the notice of motion is set-aside.

4. In view of disposal of the appeal from order, the civil application does not survive and is accordingly disposed of. No order as to costs.

(R.D. DHANUKA, J.)