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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION

NOTICE OF MOTION No. 146 OF 2015

IN

APPEAL No. 523 OF 2009

IN

SUIT No. 1336 OF 1988

Dr. Arun Prabhu ... Applicant

In the matter between :

M/s. Rizvi Builders ... Appellant

Vs.

Dr. Arun S. Prabhu & Ors. ... Respondents

Mr. Manish Mishra i/b Ravi Thankain, for the Appellant.

Mr. Karl Shroff i/b Dhru & Co., for Respondent No. 1.

Mr. Ketan Trivedi, Ist Assistant to the Court Receiver.

CORAM : V. M. KANADE, &
REVATI MOHITE DERE, JJ.

DATE : FEBRUARY 6, 2015

PC.

1. Heard the learned counsel appearing on behalf of the Applicant / Respondent No. 1 and the learned counsel appearing on behalf of the Appellant.

2. Offer given by Mr. Mohd. Ashrafi pursuant to the public notice dated 2nd December, 2015 for the use and occupation of the suit flat was rejected by the Court Received only on the ground that demand draft, which was given by the said person was not drawn on nationalised bank, but was drawn on ICICI Bank. In our view, it

would be appropriate if the said condition of demand draft of a nationalised bank is waived.

3. We have perused the valuation report, which was tendered in a sealed cover. It says fair and reasonable amount of royalty. The offer which was given by the Mr. Mohd. Ashrafi, pursuant to the public notice dated 2nd December, 2015 is fair and reasonable. The said Mr. Mohd. Ashrafi is directed to give fresh demand draft drawn on ICICI Bank or any other bank except the co-operative bank. The Court Receiver is directed to accept the said demand draft.

4. The Court Receiver may appoint Mr. Md. Ashrafi as his agent for the suit flat. The Court Receiver shall execute usual leave and license agreement in favour Mr. Md. Ashrafi for a minimum period of 22 months, subject to the usual terms and conditions. After the said period of leave & license agreement is over, the Court Receiver may renew the same after re-negotiation. With this direction, notice of motion is disposed of.

[REVATI MOHITE DERE, J.]

[V. M. KANADE, J.]

Vinayak Halemath