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IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

NOTICE OF MOTION (L) NO.1102 OF 2015

IN

SUIT NO.1456 OF 2012

Sharda K. Bhalla And Anr.

...Plaintiffs

vs

The Municipal Corporation of Greater Mumbai And 4 Ors.

...Defendants.

.....

Mr. Jaiwant Chandnani, i/b. Sanjiv Sawant, for the Plaintiffs.

Mr. Simil Purohit, i/b. Vimadalal & Co., for Defendant Nos. 3 to 5.

.....

CORAM : S.C. GUPTE, J.

DATED : 29 APRIL 2015

P.C. :

. Without prejudice to the rights and contentions of the parties, by consent of the Plaintiffs and Defendant Nos. 3 to 5, Defendant Nos. 3 to 5 are permitted and allowed to give the terrace of the suit property to third parties for the purpose of installation of Mobile Towers/Antennas and other accessories thereof.

2. It is agreed by and between the parties that the arrangement would be as follows :-

(i) Upon Defendant Nos. 3 to 5 receiving an offer for installation of Mobile Towers/Antennas, Defendant Nos. 3 to 5 through their Advocates shall forthwith communicate such offer to the Plaintiffs' Advocates in writing. Presently, Defendant Nos. 3 to 5 have received an offer of Rs.25,000/- per month subject to further negotiation for installation of

Mobile Towers/Antennas.

(ii) The Plaintiffs shall be permitted to obtain a better offer within a period of one month from the date of intimation.

(iii) If the Plaintiffs fail to better the offer at least by 15% of the offer obtained by Defendant Nos. 3 to 5 within the aforesaid period of one month, in that event, the offer received by Defendant Nos. 3 to 5 shall be finalized without any further reference to the Plaintiff. It is agreed that the offer most beneficial will be accepted and acted upon by Defendant Nos. 3 to 5.

(iv) Such Mobile Towers/Antennas will be permitted to be installed subject to all permissions from the BMC as may be required. Defendant Nos. 3 to 5 shall communicate plans of construction of such Towers/Antennas to the Plaintiffs one week before proceeding with the installation of Mobile Towers/Antennas. Defendant Nos. 3 to 5 will ensure that the cellular operator installs Mobile Towers/Antennas in accordance with such plans.

3. All net proceeds received from the installation of Mobile Towers/Antennas as aforesaid, shall be deposited in a new Saving Account opened by Defendant Nos. 3 to 5 with a Nationalized Bank. Defendant Nos. 3 to 5 shall use the monies deposited into this new account only for the payment of statutory dues in respect of the suit property. Such statutory dues shall only mean ground rent and property taxes and other taxes/charges payable to the Municipal Corporation. Defendant Nos. 3 to 5 shall furnish a quarterly account of the monies deposited into this new

account and expenses incurred therefrom in the manner provided herein. Subject to the payments to be made from this account as provided herein, the monies deposited in this account shall abide by the orders that may be passed in this suit.

4. Liberty to apply.
5. The Notice of Motion is disposed of accordingly.

(S.C. GUPTE, J.)