

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

**SUIT NO.622 OF 2014
WITH
NOTICE OF MOTION NO.1483 OF 2014**

M/s. Indu Enterprise ... Plaintiff
versus
Manohar B. Darpe and Ors. ... Defendants

Mr. Jahagirdar, Senior Advocate with Mrs. Bharti Mahant, Ms. Devika Nigade, Ms. Saanya Chowkulkar, Mr. Neeraj Patil, for Plaintiff.

Mr. Cyrus Ardeshir with Ms. Viloma Shah, Ms. Juhi Bahirwani i/by M/s. Hariani and Co., for Defendant Nos.2 to 6.

CORAM: S.J. KATHAWALLA, J.

DATE: 21st OCTOBER, 2015

P.C.:

1. Heard the learned Advocates for the parties and the following order is passed :

(i) The Suit is decreed in terms of prayer clauses (a), (b) and (c), which are reproduced hereunder :

(a) this Hon'ble Court be pleased to declare that the Development Agreement dated 5th December, 2010, Power of Attorney dated 5th December, 2010 and Supplemental Agreement dated 19th April, 2014 entered between the Plaintiff and the Defendant No.7 Society at Exhibits J, K. and X hereto are binding upon the Defendant Nos.1 to 6 ;

(b) this Hon'ble Court be pleased to direct the Defendant

Nos.1 to 6, their servants, agents, and all persons claiming through / under them to quit, vacate, and hand over vacant and peaceful possession of the Suit flats viz. Flat No.11 on the second Floor, Flat No.10 on the Second Floor, Flat No.16 on the 3rd Floor, Flat No.5 on the first floor, Flat No.19 on the Fourth Floor and Flat No.21 on the ground floor of Ankoor building belonging to Defendant No.7 situated at Chapekhar Bandhu Marg, Near Neeta Apartment, Mulund (E), Mumbai – 400 081, to the Plaintiff for the redevelopment in accordance with the said Development Agreement dated 5th December, 2010 and modified by Supplemental Agreement dated 19th April, 2014;

(c) this Hon'ble Court be pleased to restrain the Defendant Nos.1 to 6, their servants, agents and all persons claiming through/under them, from in any manner interfering/obstructing, creating any impediment in fulfillment or performance of any obligations of the Society / Developers under the Development Agreement dated 5th December, 2010 and Supplemental Agreement dated 19th April, 2014;

(ii) The learned Advocate for Defendant Nos.2 to 6 on instructions, undertakes to withdraw the Dispute being Case No.CC/118 of 2014 filed before the Co-operative Court within a period of two weeks from today.

(iii) The Court Receiver, High Court, Bombay, shall stand discharged upon execution of the Agreements without passing account, subject to payment of costs, charges and expenses.

(iv) All the parties shall abide by the Development Agreement dated 5th December, 2010 and the Supplemental Agreement dated 19th April, 2014.

(v) The Suit as well as the above Notice of Motion accordingly stand disposed of.

(S.J.KATHAWALLA, J.)