

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

**NOTICE OF MOTION NO.1556 OF 2015
IN
SUIT NO.650 OF 2014**

Bipin S. Talpade ... Plaintiff
versus
M/s. T.M.S. Associates and Ors. ... Defendants

Mr. Amarendra Mishra, for Plaintiff.
Mr. Vora i/by M/s. Pramodkumar and Co., for Defendant No.1.
Mr. H.S.S.Murthy i/by Mr. Abhishek Patil, for Defendant No.5.

CORAM: S.J. KATHAWALLA, J.

DATE: 14th SEPTEMBER, 2015

PC.:

1. Heard the learned Advocates for the parties at some length. The learned Advocate for Defendant No.1 states that the part of Plot of Land bearing CTS No.145 is taken over by the Corporation as set back land and on the balance portion, he has constructed a building as far back as in the year 2010-11 and has shifted the tenants who are residing on Plots Nos.145 and 146 in the rehab building. It is therefore, submitted that as far as CTS Plot No.145 is concerned, third party rights have already been created and no further construction remains to be carried on the said CTS No.145.

2. As far as CTS No.146 is concerned, the same is taken over by the Corporation since it is fall under DP, the same is taken over by the Corporation.

However, the Defendant No.1 has not till date claimed any TDR in respect of the said plot. In view the aforesaid facts, the following order is passed by consent :

(i) The Defendant No.1 shall not claim TDR in respect of CTS No.146 without seeking prior permission of this Court from the Corporation.

(ii) All contentions of the parties are kept open.

(iii) The Notice of Motion is accordingly disposed of.

(iv) Hearing of the Suit is expedited. Place the Suit for Framing of Issues on 28th September, 2015.

(S.J.KATHAWALLA, J.)

CERTIFICATE

Certified to be true and correct copy of the original signed order.