

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

NOTICE OF MOTION (L.) NO.2050 OF 2015
IN
SUIT NO. 575 OF 2015

Ras Estates Pvt. Ltd. ... Applicant /
Defendants

In the matter between
Mr. Prateek Seksaria ... Plaintiff
Vs.

Ras Estates Pvt. Ltd. & Ors. ... Defendants

Dinyar Madon, Sr. Adv. a/w. Mr. Snehal Shah, Adv. a/w. Mr. Mayur
Khandeparkar, Adv. a/w. Mr. Saket Mone, Adv. a/w. Vishesh Kalra,
Adv. i/b. Vidhi Partners for plaintiff.

Girish Godbole, Adv. a/w. Vikram Chawan, Adv. i/b. Srushti J
Thakkar, Adv. for defendant Nos.1 and 2.

CORAM : MRS. ROSHAN DALVI, J.

DATE : 3rd August, 2015.

P.C. :

1. The Notice of Motion is for reference of dispute in the suit to arbitration under Section 8 of the Arbitration and Conciliation Act, 1996.

2. Under clause 10 of the agreement between the parties dated 2nd August, 2012 upon which the suit is filed the aspect of claiming refund upon the stipulations under Section 8 of the Maharashtra Flat Ownership Act, 1963 (MOFA) was upon the authority who would act as arbitrator in the dispute between the parties.

3. The plaintiff has not applied for refund upon the stipulation under Section 8 of the MOFA. The plaintiff has sued for specific performance and damages. The dispute with regard to specific performance and damages is not referred to arbitration by the parties. Hence suit cannot be referred to arbitration.

4. Hence Notice of Motion is dismissed.

(ROSHAN DALVI, J.)