

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

NOTICE OF MOTION (L.) NO.2149 OF 2015
IN
SUIT (L) NO.805 OF 2015

Arcadia Developers Pvt. Ltd.	...	Applicant / Plaintiff
Vs.		
Rameshwar Darshan CHS Ltd. & Ors.	...	Defendants

Uday Bobade, Adv. a/w. Govinda Mohanty, Adv. i/b. Pandya & Poonawala for plaintiff.

Mr. Vishal Kanade, Adv. a/w. Jayesh Vyas, Adv. for defendant No.1.
A M Vernekar, Adv. for defendant Nos.2, 3 and 4.

CORAM : MRS. ROSHAN DALVI, J.
DATE : 14th August, 2015.

P.C. :

1. The plaintiff is the developer of the building of defendant No.1 society. Defendant Nos.2, 3 and 4 are only two of the members out of 24 members of defendant No.1 society who objected to hand over possession of the respective flats to the plaintiff.

2. The members are bound by the resolution of the society. The society has accepted the plaintiff's claim. The plaintiff has agreed to offer specified compensation by way of transit accommodation as also specified area by way of permanent alternate accommodation to all the members. The plaintiff shall comply with those conditions with regard to defendant Nos.2 to 4 as much as they comply with in respect of the other members. Defendant Nos.2 to 4 are required to handover vacant possession as is their obligation for the plaintiff to proceed with the development work.

3. Hence the following order :

1. Defendant Nos.2, 3 and 4 shall handover vacant and peaceful possession of their respective flats being Flat No.4 in 'A' wing and Flat No.9 in 'B' wing of defendant No.1 society within two weeks from today.
2. If defendant Nos.2, 3 and 4 fail to handover possession of their respective flats within the aforesaid time, the Court Receiver shall stand appointed receiver in respect of their respective flats. The Court Receiver shall then take possession from defendant Nos.2, 3 and 4 of their respective flats and handover the same to the plaintiff for redevelopment.
3. Notice of Motion is disposed of accordingly.
4. Defendants are deemed to have been served the writ of summons. Hence defendants shall file their written statement within 30 days.
5. Suit shall be placed on board on 14th October, 2015.

(ROSHAN DALVI, J.)