

FARAD CONTINUATION SHEET
IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.9793 OF 2014

Office Notes, Office Memoranda of Coram, Appearances, court's orders or directions and Registrar's orders	Court's or Judge's orders
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Mr.Anand Pandey for the petitioner

Mr.Nisar Amin Ghatte for the respondent

CORAM : K. K. TATED, J.

DATE : SEPTEMBER 1, 2016

P.C.:

1 Heard the learned counsel for the parties.

2 By this petition under Article 227 of the Constitution of India, the Petitioner husband challenges the order dated 5.7.2014 passed by Judge, Family Court No.5, Mumbai below Exhibit-7 in Petition No.B-84 of 2012 restraining petitioner from selling or transferring the suit property or to take alternate accommodation or rent from the developer and builder till the decision of the main petition.

3 The learned counsel for the petitioner after taking instruction from his client who is present in court filed affidavit cum undertaking dated 1.9.2016 stating that petitioner husband will not

take any steps to transfer and or to create third party right in the suit premises. Paragraph 2a and 2b of the said undertaking reads thus:

“2(a) I undertake that I shall not create any third party interest in respect of the premises as mentioned in the petition till the disposal of the petition filed by the Respondent in the Family Court.

2(b) I say that as and when the premises under question goes for redevelopment I will take out appropriate proceedings in the Hon'ble Family Court for possession of the said premises, for giving the said premises for redevelopment, for collecting rent from the developer and for taking possession of alternate accommodation.”

4 The learned counsel for the respondent wife submits that if the undertaking dated 1.9.2016 given by the petitioner is accepted by this court they have no objection to set aside the order dated 5.7.2014 passed by Family Court. Hence, by consent of both the parties, Writ Petition stand disposed of on following terms:

- a) Undertaking given by the petitioner on 1.9.2016 is taken on record and accepted.
- b) Liberty granted to the petitioner to move before the Family Court as and when he required, to hand over the possession of the suit flat to the developer, and said application be decided by the

Family Court on its own merits after hearing both the sides.

c) Writ Petition stands disposed of in above terms.

JUDGE