

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
NOTICE OF MOTION (L) NO. 5 OF 2016

IN

SUIT (L) NO. 1358 OF 2015

M/s. Lakshmi Construction ... Applicant / Plaintiff

Versus

Navkala Bharati CHSL & Anr. ... Defendants

Mr. Pravin Samdani, Sr. Adv. i/b. Lilani Shah and Company for the Applicant / Plaintiff.

Mr. Mayur Khandeparkar i/b. Tejesh Shah for Defendant No. 1.

Mr. Karl Tamboly a/w. Ms. Nandini Joshi i/b. Harish Joshi and Company for Defendant No. 2.

CORAM : S.J. KATHAWALLA, J.
DATED : 14TH JANUARY, 2016

P.C.

Heard the learned Advocates appearing for the parties and the following order is passed by consent :

1. The Defendant No. 2 shall handover vacant, peaceful possession of the Suit premises being Shop No. 1 to the Plaintiff and / or the Society on or before 31st January, 2016.
2. The Licensee in the said shop is directed to vacate the same on or before 31st January, 2016, failing which forcible possession of the shop shall be taken by the Plaintiff and / or the Society.
3. The Plaintiff shall comply with the assurances contained in the Development Agreement dated 27th September, 2011 entered into between the Plaintiff and the Defendant No.1, the Supplementary Development Agreement dated

21st November, 2014 read with Resolution passed by the Society dated 30th August, 2015.

4. The parties have agreed that the Developer shall construct only a khokha / shell toilet in the permanent alternate accommodation being Shop No. 1 in the new building and handover the same to Defendant No. 2, to which the Society has no objection. The toilet so constructed will be of the same finish as the rest of the shop, without any tile or fittings.

5. After the occupation certificate is obtained by the Developer / Society, the Developer as well as the Society shall have no objection if the Defendant No. 2 applies to the Corporation and obtains permission to make a pedestrian gate admeasuring 2.5 feet from the grill compound wall provided by the Developer in front of her shop.

6. The corpus fund and the rent to which the Defendant No. 2 is entitled under the Agreement shall be handedover to the Defendant No. 2 within a period of one week from the date of this order.

In view thereof, the Notice of Motion is disposed of.

Place the Suit for directions on 2nd February, 2016.

(S.J.KATHAWALLA, J.)