

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
SUIT (L) NO. 109 OF 2016

M/s. M\$ Realty LLP ... Plaintiff

Versus

Dharia Mansion CHSL and Ors. ... Defendants

ALONG WITH
NOTICE OF MOTION (L) NO. 498 OF 2016
IN
SUIT (L) NO. 109 OF 2016

Mr. V.R. Dhond, Sr. Adv. a/w. Mr. Shyam Kapadia, Mr. Bhavik Mehta, Ms. Karishma Pandya i/b. Dhruve Liladhar and Company for the Plaintiff.

Mr. Hasmit Trivedi i/b. Ms. Anita Parab for Defendant No. 1.

Mr. Shambhu Jha i/b. Mr. Kanai Biswas for Defendant No. 2.

Mr. J.V. Parmar for Defendant No. 3.

Mr. S.S. Kulkarni for Defendant No. 4.

Mr. D.D. Jagad – Defendant No. 2 present in person.

Ms. Daksha S. Shetty, Sister of Defendant No. 2 present in person.

Mr. Sunil D. Jagad – Defendant No. 3, present in person.

Ms. Rajeshree Jagad, wife of Defendant No. 3, present in person.

Mr. Vishrut Jagad, son of Defendant No. 3, present in person.

CORAM : S.J. KATHAWALLA, J.
DATED : 10TH MARCH, 2016

P.C.:

1. As regards the disputes *inter se* between the Plaintiff and Defendant Nos. 2 and 3, the learned Advocates for the Plaintiff and Defendant Nos. 2 and 3 have tendered the Minutes of Order dated 10th March, 2016 (the minutes). They submit that the Minutes be taken on record and the above Suit as well as Notice of Motion be disposed of against Defendant Nos. 2 and 3 in terms of the said Minutes. The Minutes are taken on record and marked 'X' for identification. The Minutes

are signed by the Plaintiff and Defendant Nos. 2 and 3. The Minutes are also signed by the Advocates for the Plaintiff and Defendant Nos. 2 and 3.

2. The Defendant No. 2 and his sister have informed the Court that certain movable including jewellery belonging to Defendant No. 2 and his family are lying in the Suit flat. However, Defendant No. 3 has denied and disputed the claim of Defendant No. 2 and his sister. The Defendant No. 3 states that none of the movables, jewellery or any other items belonging to Defendant No. 2 and his family members are lying in the Suit flat. It is therefore clarified that Defendant Nos. 2 and 3 shall be at liberty to file independent proceedings against each other qua the movables, jewellery, possession of the Suit flat, etc. and any such proceedings filed shall be decided on its own merits, and the decision shall not be in any manner influenced by the present agreement recorded in the Minutes marked 'X'.

3. As far as the disputes between the Plaintiff and Defendant No. 1 and 4 are concerned, it is clarified that Mr.Holambe Patil, Advocate appearing for Defendant No. 4 has sought discharge and Mr. S.S. Kulkarni now represents Defendant No. 4 in the above Suit. He undertakes to file his Vakalatnama on behalf of Defendant No. 4 within a period of one week from today. The undertaking is accepted.

4. The learned Advocates appearing for the Plaintiff and Defendant Nos. 1 and 4 have now tendered Consent Terms dated 10th March, 2016. They submit that the Consent Terms be taken on record and the above Suit as well as Notice of Motion be disposed of in terms of the Consent Terms. The Consent Terms are taken on record and marked "X-1" for identification. The Consent Terms are signed

by the Authorized Signatory of the Plaintiff, the Authorized Signatory / member of the Defendant No. 1 and Defendant No. 4. The Consent Terms are also signed by the Advocates for the parties. The undertakings recorded in the Consent Terms marked 'X-1' are accepted.

5. It is further clarified that the Plaintiff shall at the time of applying for commencement certificate also seek modification of the sanctioned plan enclosed to the Consent Terms marked 'X-1' to reflect the staircase connecting the ground floor and first floor and the loft and bathroom to the extent not reflected in the sanctioned plan. The Mumbai Municipal Corporation, Greater Mumbai is directed to process the Application for modification within a period of eight weeks from the receipt of the same. In the event of the said Application being rejected, the Plaintiff shall immediately communicate the decision of the Corporation to Defendant No. 4 with all details and documents in that behalf and Defendant No. 4 is at liberty to apply to this Court for appropriate orders / directions.

6. The above Suit as well as Notice of Motion are accordingly disposed of against all the Defendants in terms of Minutes marked 'X' as well as Consent Terms marked 'X-1'. Refund of Court Fees, if any, as per rules. Liberty to apply.

(S.J.KATHAWALLA, J.)