

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
NOTICE OF MOTION NO.887 OF 2013
WITH
CHAMBER SUMMONS NO.1211 OF 2012
IN
SUIT NO.2714 OF 2007**

Nivedita A. AthaniPlaintiff

V/s.

Nandkumar Kushe & Ors.Defendants

Mr. Pranav Desai i/b. M/s. Apex Law Partners for the plaintiff.

Mr. Harihar Bhavé i/b. Bhavé and Co. for the defendant nos.9 to 13.

Mr. Vaibhav Karnik i/b. Mr. Priten Killedar for the defendant no.16 and applicant in NMSL/2084/2016.

Mr. Ashish Kamat a/w. Ms. Megha Chandra and Ms. Simeen Shaikh i/b. Ms. Simeen Shaikh for the defendant no.27.

Mr. Abhijeet Marathe for the defendant no.18 – Society in NMS/887/2013.

CORAM : K.R.SHRIRAM,J

DATE : 5th OCTOBER,2016

P.C.:-

1 Mr. Marathe, counsel for the Society states that the Society is ready to file an affidavit but they should know what should be mentioned in the affidavit.

2 The suit flat has had multiple transfers and it also appears that whoever had the flat had mortgaged it to different banks and liability to some of the banks has not even been discharged.

3 The Society is, therefore, directed to file an affidavit explaining how many transfers have been effected from the date the Society was incorporated and the documents based on which the Society effected the transfer of the share certificates. The Society should also annexe to the affidavit copies of the minutes of meeting and the agreements based on which the transfers were effected. The Society will also disclose in the affidavit notice of charge received by them from any bank or financial institution.

 The Society shall also explain in the affidavit the reason why it is refusing the transfer of the suit flat in favour of defendant no.17. These explanations are required only relating to flat no.705 in 'A' Wing of the building.

 This affidavit to be filed and copy served by 21st October, 2016.

4 Stand over to 27th October, 2016.

NOTICE OF MOTION NO.2084 OF 2016

1 Though this notice of motion is not listed today, by consent of the parties is taken up for hearing.

2 This notice of motion is to recall the order dated 20th April, 2016 and restore the chamber summons no.1046 of 2012 to file.

3 Have perused the affidavit in support of the notice of motion and also heard the counsel for the applicant. The counsel for plaintiff submits to the orders of the court.

4 Therefore, the chamber summons no.1046 of 2012 is restored to file. The notice of motion is allowed and accordingly disposed of in terms of prayer clause – (a).

CHAMBER SUMMONS NO.1046 OF 2012

1 By consent of the parties, this chamber summons is taken up for hearing.

2 Have heard the counsel and also considered the affidavit in support of the chamber summons. The delay it is stated is only of 19 days.

3 Therefore, the delay is condoned. The registry to accept the written statement of defendant no.16 and take the same on record subject to removal of office objections. The undertaking of the counsel for the applicant that the written statement will be lodged in the

registry on or before 7th October, 2016 is accepted and so ordered.

4 The chamber summons accordingly stands disposed. Cost to be costs in the suit.

(K.R.SHRIRAM,J)