

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION**

NOTICE OF MOTION NO. 402 OF 2016

IN

WRIT PETITION NO. 786 OF 2014

Suhail Abdul Kader Ishkay in the matter of Alfa Mana Realtors Pvt. Ltd. and Anr.	}	Applicant
versus		
State of Maharashtra and Ors.	}	Petitioners Respondents

Mr. Chirag Balsara with Mr. Abbas Zaidy
i/b. Mr. Zohair H. Zaidy for the applicant.

Ms. Geeta Shastri - Additional
Government Pleader for respondent nos.
1 and 2.

**CORAM :- S. C. DHARMADHIKARI &
B. P. COLABAWALLA, JJ.**

DATED :- OCTOBER 17, 2016

P.C. :-

1. The writ petition is filed in this court, which is admitted. We had indicated on the earlier occasion as to how despite its pendency and over an larger issue and dispute, the second respondent has communicated to the petitioners that it cannot dispense with the requirement of obtaining prior no-objection and consent for assignment or transfer of the property, which is leased and from the State.

2. We need not go into the factual disputes and several other aspects, simply because, on earlier occasion, we have passed an

order. We had posted the matter today essentially for compliance. Today also, an additional affidavit is tendered by the petitioners' counsel, but the contents of that affidavit need not be referred in detail. More so, when in all fairness, Ms. Shastri appearing for the State states that the same are disputed by her. However, there is a copy of the communication addressed to her by one Mr. Jayant Nikam, Superintendent, City Survey and Land Record, Mumbai City, which communication states that there is an amendment made to the Maharashtra Land Revenue Code, 1966, whereunder, in the event it is the transfer of leasehold land held in lease from the State, without obtaining prior permission of the Collector on payment of premium on account of unearned income and transfer fees or charges, then, the Government can proceed on the footing that there is a contravention of the lease and the statute and impose and recover penalty in addition to such premium or transfer fees or charges at the rate specified by the Government by an order from time to time. Without prejudice to this provision and the power conferred thereunder, the State, in this case and particularly the Sub-Registrar of Assurances will register the documents brought for registration pertaining to City Survey No.110 of Mazgaon, without prejudice to the rights and contentions aforementioned.

3. Once this communication is received by the Government's advocate and copy of which is placed on record, then, in the light of the contents thereof, this notice of motion is disposed of.

4. It is stated that as soon as the documents are presented for registration, within maximum outer limit of one week, they would be registered and endorsement in that regard would be handed over to the applicant in the notice of motion. The statement made on instructions is accepted as an undertaking given to this court.

(B.P.COLABAWALLA, J.) (S.C.DHARMADHIKARI, J.)