

SHEPHALI

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
IN ITS COMMERCIAL DIVISION
NOTICE OF MOTION (L) NO. 194 OF 2016
IN
COMMERCIAL SUIT (L) NO. 260 OF 2016
WITH
LEAVE PETITION NO. 358 OF 2016**

Kalpataru Properties Pvt. Ltd.	...Plaintiffs
<i>Versus</i>	
Yuga Homes Limited	...Defendants

**Dr. Veerendra Tulzapurkar, Senior Advocate, a/w Ms. Smriti
Yadav, Mr. Vaibhav Kini, i/b Khaitan & Co., for the Plaintiffs.
Mr. Vinod Bhagat, a/w Mr. Dhiren Karania, Ms. Parveen Anand, i/b
G. S. Hegde & V. A. Bhagat, for the Defendants.**

**CORAM: G.S. PATEL, J
DATED: 7th December 2016**

PC:-

1. By consent, the Petition for leave under Clause XIV of the Letters Patent is made absolute in terms of prayer clause (a).

2. Mr. Tulzapurkar moves a draft amendment to the Plaint. This is taken on record and marked "X" for identification. Leave to

amend. Amendment to be carried out, on or before 9th December 2016, without need of reverification.

3. Mr. Tulzapurkar also tenders a draft amendment to the Notice of Motion. This is also taken on record and marked “X1” for identification. Leave to amend. That amendment is also to be carried out on or before 9th December 2016.

4. The statement made in paragraph 4 of the Affidavit dated 2nd December 2016 is accepted as an undertaking on behalf of both Defendants, i.e., Yugo Homes limited and Yugo Builders, a partnership firm.

5. It is clarified that the effect of this is that neither of the Defendants is entitled to use the name or the mark **Kalpataru** in respect of any project or enterprise whatsoever. As regards the existing project in Chennai, a statement is noted that the unsold 27 units come to the share of the land owner, i.e., that these cannot and will not be sold or transacted by the present two Defendants, including necessarily, therefore, the partners of the 2nd Defendant.

6. The second partner of the 2nd Defendant is said to be one Consolidated Construction Consortium Limited. As regards the land owner, the Plaintiffs will be at liberty to take such proceedings in that behalf or as they may be advised.

7. This order will continue as an ad-interim order.

8. The Notice of Motion is made returnable on 23rd January 2017 with liberty to the parties to apply.

(G. S. PATEL, J.)