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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
NOTICE OF MOTION NO. 2206 OF 2015
IN
SUIT NO. 1059 OF 2015**

Vrajlal Talakshi Gala & 6 Others ...Plaintiffs
Versus
Vijay Developers ...Defendants

Mr. Murlidhar Khadilkar, i/b MAG Legal, for the Plaintiffs.
None for the Defendants.

CORAM: G.S. PATEL, J
DATED: 11th August 2016

PC:-

1. There is an ad-interim order dated 29th October 2015. This is in respect of the Defendants' construction project Vijay Diamond Residency. At that time, I found the cast of the prayers of the Notice of Motion somewhat overbroad and I, therefore, granted a more restricted relief in terms of prayer clauses (a) and (b), but limited to the Defendants' Vijay Diamond Residency project at Bhivpuri.

2. There is an Affidavit in Reply. I use that expression very loosely. This Affidavit does not deal with anything that is in the plaint. What it does say in substance is that since the Plaintiffs deal

with rich people, there is no possibility of confusion. Then there is this astounding assertion made in paragraph 5:

“5.... I further say and submit that under the Article of the Constitution of India, every person is entitled to live and earn his livelihood through gainful employment/business and Defendant having obtained the name of Vijay Developers from Registrar of Firms under due process of law cannot be deprived of their livelihood for any reason whatsoever so long as Plaintiffs do not conclusively prove to this Hon’ble Court that the Defendant have been doing business dishonestly, with ulterior motive and or with malafide intentions.”

3. It is difficult to note what is to be made of this. The Defendant seem to be suggesting that they have a Constitutional right to infringe trade marks and an equally Constitutional right to act in deceit and to pass off their services as those of others. The submission does not even merit a comment.

4. The ad-interim order will continue as the final order on the Notice of Motion.

5. The Notice of Motion is made absolute in these terms with costs. In addition, the Plaintiffs will be entitled to recover the actual costs of this Notice of Motion at the final hearing of the Suit.

(G. S. PATEL, J.)