

FARAD CONTINUATION SHEET
IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

CIVIL APPLICATION NO.1263/2017
IN
WRIT PETITION NO.4098/2017

Office Notes, Office Memoranda of Coram, Appearances, court's orders or directions and Registrar's orders	Court's or Judge's orders
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Mr. Deepak Punamiya for the applicant
Mr. P. D. Dalvi for the respondent / petitioner
Mr. Cyrus Ardeshir with Prachi Dhanani with Shyam Gopal i/b. Veritas Legal for respondent No.1
Mrs. V. S. Nimbalkar, AGP for respondent No.2.

CORAM : K. K. TATED, J.
DATE : JULY 11, 2017

P.C.:

1. Heard. This application is made by the flat purchaser of Flat No.A-3502 purchased by registered sale deed dated 12.08.2016, for joining them as party respondent in the Writ Petition and restraining the society from interfering him from entering and/or carrying out internal work in his flat and to occupy the same.

2. The learned counsel for the applicant submits that the applicant has made an application for membership on 11.01.2017, which is pending

with the society. He further submits that they also wrote a letter dated 14.04.2017 to the society pointing out that they are *bona fide* purchasers of the suit flat and therefore, the society has no right to interfere with their possession and/or carrying out internal work according to law. Therefore, the present application may be allowed as prayed.

3. The learned counsel for the petitioner society vehemently opposed the application. He submits that the applicant has failed to show any cause of action for seeking any injunction order against the petitioner society. Therefore, the Civil Application is not maintainable. Same is liable to be dismissed with costs.

4. It is to be noted that in the present proceedings, the Flat Purchaser of Flat No.B-3501 has made Civil Application No.1262/2017 for similar relief. Same was allowed by this court by order of even date restraining the petitioner from interfering with the *bona fide* purchaser of the flat from occupying and/or carrying out necessary internal work according to law and also directed the petitioner to join them as party in the Writ Petition.

5. For the reasons recorded by this court while deciding Civil Application No. 1262/2017, I am of the opinion that the applicant has made out a case in the present Civil Application on the same ground for the same relief.

6. At this stage, Mr. Dalvi, the learned counsel for the petitioner society, across the Bar, makes a statement that instead of granting three weeks time to carry out amendment, some lesser time be given, because the petitioner is ready and willing to carry out the amendment within a week with amended copy of the Writ Petition to other side. Same is permitted.

7. Hence, the Civil Application is allowed as under:

a. The petitioner is directed to join the applicant as respondent No.5 in the Writ Petition within one week from today.

b. If amendment is not carried out within stipulated time as stated hereinabove, the advocate for the applicant is directed to carry out amendment in the cause title of the petition.

c. If amendment is carried out within stipulated time as stated hereinabove, the advocate for the petitioner is directed to serve the amended copy of the petition on the applicant or their advocate thereafter immediately.

d. If amended copy of the Writ Petition is served on the applicant or their Advocate, two weeks time is granted them to file an Affidavit-in-Reply, if any, with copy to other side.

e. Till further orders, the petitioners are restrained from interfering with the right, title and interest of the applicant of Flat No.A-3502 in any way of whatsoever nature and also permit them to carry out internal work, as per law.

f. Civil application stands disposed off accordingly.

g. No order as to costs.

h. Office is directed to place the Writ Petition on board for admission on 01.08.2017.

JUDGE