

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

Writ Petition NO. 929 OF 2016

Kumar Elixir Co-operative Housing
Society

...Petitioner

Versus

M/s. Kumar Builder And Ors.

...Respondents

....

Dr. Abhinav Chandrachud a/w. Vibhav Krishna, Tahir Prande,
Devang Lakhotia, Gaurav Pandey i/b. Juris Consillis, for the
Petitioner.

Mr.G.S. Godbole, Senior Advocate a/w. S.S. Kothari, Advocate for
Respondents No.1 and 2 to 8.

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CORAM : R. G. KETKAR, J.

DATE : 09th MARCH, 2017

P.C.

1. Heard Dr.Abhinav Chandrachud, learned Counsel for
the petitioner and Mr.G.S. Godbole, learned Senior Counsel for
respondents No.1 to 8, at length.

2. By this Petition under Article 227 of the Constitution of
India, the petitioner, hereinafter referred to as the 'plaintiff' has
challenged the judgment and order dated 11.3.2014 passed by
the learned Civil Judge, Junior Division, Pune below Exhibit-5
in R.C.S. No.6598/2012 as also the judgment and order dated

14.8.2015 passed by the learned District Judge-23, Pune in Misc. Civil Appeal No.193/2014. By these orders, the Courts below rejected the application made by the plaintiff for injunction restraining defendants No.1 to 9 from applying and/or availing and/or utilizing the TDR of the suit property for the purpose of construction on the open portion of the suit property and they be also enjoined from selling, alienating and/or dealing and/or creating any third party interest in respect of the open portion of the land out of the suit property and with the TDR component of the suit property and from entering into the suit property and from obstructing the members of the plaintiff society from the peaceful use and enjoyment of the suit property and from forcibly dispossessing the plaintiff society from the open portion of the suit property and from changing and altering the nature thereof which is at present open.

3. The matter was heard at length on 3.3.2017 and was kept today for passing order. Learned Counsel for the parties have tendered minutes of the order dated 8.3.2017. They submit that by consent of the parties Writ Petition may be disposed of in terms of the minutes of order. In view thereof, by consent of

the parties, the impugned orders stand substituted by this minutes of the order.

4. Leave to amend paragraph-6 of the undertaking is granted. Amendment shall be carried out forthwith.

5. All parties, including the trial Court, to act upon the authenticated copy of this order. Order accordingly.

(R. G. KETKAR, J.)

Deshmane (PS)