

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

**NOTICE OF MOTION NO. 319 OF 2017
IN
SUIT NO. 218 OF 2016**

Vinay Somani	.. Applicant/Plaintiff
Vs.	
Adinath Builders Pvt. Ltd. & Ors.	.. Defendants

Mr.J.P. Sen, senior advocate a/w. Mr.Jatin Pure and Ms.Purvi Joshi i/b DSK Legal for plaintiff.

Mr.Kunal Dwarkadas a/w. Ms. Prachi Dhanani, Mr.Shyam Gopal i/b Veritas Legal for defendant nos.1 to 3.

Mr.Prakash Shinde with Mr.Nishit Dhruva and Ms.Khushbu Chachhed i/b MDP and Partners for defendant nos.4, 5, 9 to 12.

**CORAM : K.R.SHRIRAM, J.
DATE : 9TH MARCH, 2017**

P.C.

1 Shri Sen for the plaintiff and Shri Dwarkadas for defendant nos.1 to 3 request that an order be passed by consent so far as the plaintiff and defendant nos.1 to 3 are concerned. Shri Shinde states that defendant no.4, 5, 9 to 12 are not concerned with this arrangement and it is between the plaintiff and defendant nos.1 to 3. Therefore the following order is passed :-

1 Defendant Nos.1 to 3 agree to transfer in favour of the plaintiff 4,36,887 equity shares of defendant no.4 representing 44.13% of its issued and paid up capital. The plaintiff has handed over a Demand Draft for a sum of Rs.4,36,887/- to the defendant nos.1 to 3 as consideration for transfer of the said shares. Defendant Nos.1 to 3 have,

in turn, undertaken to transfer the said 4,36,887 shares of defendant no.4 into the Demat Account of the plaintiff on or before 14th March 2017. The said transfer shall be in full and final satisfaction of the plaintiff's claim in respect of 4,36,887 shares. The plaintiff's other claims in this suit shall survive.

2 *The plaintiff states that the subject matter of this suit does not include the shares which are the subject matter of Administration Petition No.1068 of 2013 as well as Suit No.383 of 2016.*

3 *The undertaking in paragraph 1 is accepted.*

4 *This shall be strictly without prejudice to the rights and contentions of all the parties to the suit, save and except to the extent set out above.*

5 *Liberty to apply.*

2 Shri Sen for the applicant states that so far as prayer (a) is concerned, the same has been taken care by the order dated 1st February 2017 read with order passed above.

So far as prayer clause (b) is concerned, Shri Sen states that since the plaintiff has, by virtue of this order, become owner of 44.13 % shares, defendant no.4 should be directed to give inspection of the documents.

It is open to the plaintiff to apply and if defendant no.4 for any reason, does not give inspection, the plaintiff may approach appropriate forum for necessary orders.

3 In view of the above, Shri Sen states that the notice of motion can be considered as disposed by confirming the order dated 1st March 2017 read with the order passed today as order in the notice of motion.

4 The notice of motion accordingly disposed.

4 List Notice of motion No.783 of 2016 (not listed today) on 12th April 2017 for hearing.

(K.R. SHRIRAM, J.)