

(NMS 1768 of 2010)

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

NOTICE OF MOTION No. 1768 OF 2010

IN

SUIT No. 1676 OF 2010

Vashdev K. Assomull and Anr. ...Applicants/ Plaintiffs

Vs.

Rupa Land Developers and Ors. ...Defendants

Mr. Javed Gaya a/w. Ms. Vidya Chaudhari i/b. Chambers of
Javed Gaya for Plaintiff No.2

Mr. Rajesh Shah a/w. Sunil Vyas i/b. Mansukhlal Hiralal and Co.
for Defendant No.1 and 4A to 4E

Mr. Prasad Shenoy i/b. Crawford Bayley and Co. for Defendant
No.5.

CORAM : K.R. SHRIRAM, J.

DATE : JULY 10, 2017

P.C. :

1. Both the counsel jointly suggest that the ad-interim order passed on 14th October, 2010 be confirmed as the order in the notice of motion and notice of motion be disposed.

2. Accordingly, the order dated 14th October, 2010 is confirmed as the order in the notice of motion and notice of motion stands

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disposed.

3. The counsel also states that the trial in the suit has already begun and the Commissioner Mr. Archit Dheer, who was appointed as a Commissioner, has left the country and a new Commissioner be appointed for recording evidence of PW-1. The counsel states that recording of evidence of Plaintiff's witness is still in progress.

4. By consent, Mr. Shivang Singh, an advocate practicing in this Court is appointed as Commissioner to record evidence in this matter. The fees and administrative expenses of the Commissioner along with stenographer / typing charges and venue charges to be shared equally between the Plaintiffs and the Defendants and the cost which has already been incurred and to be incurred will be costs in the suit.

5. The Commissioner to endeavor to complete recording of evidence of PW-1 by 15th September, 2017. The Commissioner to fix minimum two/three dates per session for cross examination of PW-1. If the parties do not respond promptly within 48 hours of receiving a communication from the Commissioner suggesting the subsequent dates, the Commissioner to go ahead and fix the dates convenient to the Commissioner and the parties shall make themselves available at the time and date fixed by the Commissioner. If the plaintiffs or the witness does not remain

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present, the Commissioner should close the evidence of PW-1 and if the Defendants do not remain present to cross examine the witness, the defendants cross examination should be treated closed as no cross. Once the dates are fixed, the Commissioner not to grant adjournment on any ground whatsoever unless the situation is so grave that it warrants an adjournment and for reasons recorded.

6. Liberty to apply.

[K.R. SHRIRAM, J.]