

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

**NOTICE OF MOTION (L) NO.540 OF 2017
IN
SUIT (L) NO.470 OF 2017
WITH
NOTICE OF MOTION (L) NO.851 OF 2017
WITH
SHOW CAUSE NOTICE NO.1404 OF 2017**

Capital First Ltd. ... Plaintiff
versus
Niraj Kakad Constructions Pvt. Ltd. and Ors. ... Defendants

Mr. Navroz Seervai, Senior Advocate with Mr. Ashish Kamat, Ms. Megha Chandra, Ms. Madhu Gagodia, Mr. M.P.Priyanka, i/by M/s. Naik Naik and Co., for Plaintiff.
Mr. Naushad Engineer with Mr. Anosh Sequeira, Ms. Viloma Shah, Mr. Ameya Deosthale, Mr. Dhiren Durante i/by M/s. Hariani and Co., for Defendant No.1 to 6.
Mr. B.K.Barve with Mr. Sandeep Barve, Ms. Sheetal Tanpure, Mr. Santosh Wagh, Mr. Preshit Bagul i/by M/s. B.K.Barve and Co., for Defendant No.9.
Mr. Jagdish N. Jayale, for Applicants in CHSCDL 356 of 2017 and 363 of 2017.
Mr. Rahol P. Jain, for Flat purchasers.

CORAM: S.J. KATHAWALLA, J.

**DATE: 22nd DECEMBER, 2017
(In Chambers)**

P.C.:

1. Notice of Motion (L) No.851 of 2017 is not on board. Upon mentioning, taken on board.
2. The learned Advocates for the parties have tendered Consent Terms dated 22nd December, 2017. They submit that the Consent Terms be taken on record and

the Notice of Motion (L) Nos.540 of 2017 and Notice of Motion (L) No.851 of 2017 be disposed of in terms of the Consent Terms. The Consent Terms are taken on record and marked 'X' for identification. The Consent Terms are signed by the Plaintiff, Defendant Nos.1 to 6 and the Applicants in Chamber Summons (L) Nos.363 of 2016 and 356 of 2017. The Consent Terms are also signed by Mr. Tarang Gulabani, Mr. Sarang Gulabani, Mr. Ashwin Ganatra, Mr. Haresh Ahuja, Mr. Rashid Surti and Ms. Nidhi Verma and the Advocates for the parties. The undertakings recorded in the Consent Terms are accepted. The Notice of Motion (L) Nos.540 of 2017 and Notice of Motion (L) No. 851 of 2017 stand disposed of in terms of the Consent Terms, marked 'X'. The Show Cause Notice dated 1404 of 2017 issued by order dated 01-11-2017 stands discharged.

4. It is clarified that the Court Receiver shall remain appointed in respect of the residential premises i.e. Flat No.702, Rajnigandha Co-op. Housing Soc. Ltd. (the said Flat), who shall get the said flat valued and determine the security as well as royalty payable by Defendant Nos.2 and 3. However, the amount towards security and royalty shall not be claimed from the Defendant Nos.2 and 3 until they abide by the agreement recorded in the Consent Terms. In the event of any of the Defendants committing breach of the Consent Terms, Defendant Nos.2 and 3 shall be liable to provide security and pay the royalty as determined by the Court Receiver from the date of the order i.e. 1st November, 2017.

5. Liberty to apply.

(S.J.KATHAWALLA, J.)