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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
SUIT NO. 1114 OF 2006
WITH
NOTICE OF MOTION NO. 2332 OF 2016**

L&T Finance Limited	...Plaintiff
<i>Versus</i>	
Orchid Glade Estates & Ors	...Defendants

Mr Mayur Khandeparkar, *i/b MDP Partners, for the Plaintiff.*
Mr Pradeep Kadam, *for Defendants Nos. 1 & 2.*
Ms RC Nichani, *for Defendants Nos. 3 & 4.*

CORAM: G.S. PATEL, J
DATED: 18th January 2017

PC:-

NOTICE OF MOTION NO. 2332 OF 2016

1. The Suit is for specific performance of three flat purchase agreements. The 1st and 2nd Defendants are developers. The flats in question under these agreements were Flat Nos. 102, 203 and 402. Ultimately, by an order dated 25th April 2006, it was noted that the Advocates for Defendants Nos. 1 and 2 by their letter dated 24th March 2006 informed the Plaintiffs' Advocates that two flats were

available in building and that Defendants Nos. 1 and 2 would deliver possession of these flats to “any Catholic member of the Plaintiffs”.

2. Leaving aside the question of religious denomination, that order (by Mrs NN Mhatre J as she then was) directed that the Plaintiffs would be put in possession of Flat Nos. 102 and 202. It was noted that the Plaintiffs willingly accepted Flat No. 202 in substitution and full satisfaction of their claim in regard to Flat No. 302.

3. All of this is noted subsequently in an order dated 1st October 2016 (SJ Kathawalla J). In that order, it is noted that the Secretary of the Society, who was present, said that within two weeks of receipt of the necessary application from the Plaintiffs, the Society would transfer Flat Nos. 102 and 202 in the name of the Plaintiffs. Mr Khandeparkar for the Plaintiffs says that this has been done.

4. The surviving contest, therefore, is in regard to Flat No. 402. Even in this regard, it is noted that Defendants Nos. 3 and 4 are in possession of this flat and have been in possession of this flat for a considerable period of time, since 2001. There is no question of interim relief, therefore, at this stage; and, in fairness, Mr Khandeparker does not seek interim relief in respect of Flat No. 402.

5. The Notice of Motion is disposed of in these terms and with these observations.

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6. By consent, the Suit is taken up for directions. Defendants Nos. 1 and 2 have apparently filed their Written Statements in 2007. Copies are handed over in Court to the Advocates for the Plaintiffs. Issues were settled on 14th September 2011. Since then the Plaintiffs have also filed their Affidavits of Evidence and compilation of documents.

7. Copies of the Affidavit of Evidence, Affidavit of documents and compilation are to be served on the Advocates for the Defendants on or before 27th January 2017.

8. List the Suit for marking the Plaintiffs' documents on 8th February 2017.

(G. S. PATEL, J.)