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

CHAMBER SUMMONS NO.302 OF 2017
IN
COMMERCIAL SUIT (LODGING) NO.470 OF 2017

Capital First Limited

...Plaintiff

IN THE MATTER BETWEEN :

Capital First Limited

...Plaintiff

V/s.

Niraj Kakad Constructions Pvt. Ltd. & Ors.

...Defendants

Mr.N.H. Seervai, Senior Counsel with Mr.Ashish Kamat, Ms.Megha Chandra and Ms.Madhu Goradia i/b Naik Naik & Company for the Applicant / Plaintiff.

Mr.Anosh Sequeira with Ms.Sukhada Wagle Kamat and Mr.Satchit Bhogale i/b Hariani & Co. for the Defendant Nos.1 to 6.

Ms.M. Jadhav, Section Officer from the Court Receiver's Office present.

CORAM : R.D. DHANUKA, J.
DATE : 5TH DECEMBER, 2017.

P.C. :-

1. Learned counsel appearing for the defendant nos.1 to 6 on instructions, states that his clients have no objection if the chamber summons is allowed in terms of prayer clauses (a) and (b) subject to his clients reserving the rights to raise all the contentions

on merits open. The statement is accepted. The chamber summons is made absolute in terms of prayer clauses (a) and (b) keeping all the contentions on merits as may be raised by the defendant nos.1 to 6 open. It is made clear that merely because the chamber summons is allowed, the defendant nos.1 to 6 do not admit the correctness of the allegations made in the affidavit in support of the chamber summons as well as the amendment sought for by the plaintiff.

2. Since the defendant nos.1 to 6 have agreed to the order in terms of prayer clauses (a) and (b) of the chamber summons, the plaintiff would be at liberty to apply for interim reliefs which are sought in the chamber summons by filing a separate notice of motion. The amendment to be carried out within one week from today.

3. At this stage, learned senior counsel for the plaintiff submits that when the Court Receiver's representative visited New Saket Flat situated at Santacruz to implement the *ad-interim* order passed by this Court, the said flat was lying locked. The representative of the plaintiff was informed that the defendants have already parted with possession of the said flat which is mortgaged in favour of the plaintiff. Learned counsel for the defendant nos.1 to 6 seeks time to take instructions on these statements made by the learned senior counsel for the plaintiff.

4. The Court Receiver is directed to submit a report and place it on record what transpired on the site when the Court Receiver's representative had gone to the said flat for implementing the order passed by this Court within one week from today. A copy of the report shall be served upon the plaintiff's advocate as well as upon the defendants' advocate simultaneously.

5. Place the notice of motion on record under the caption of "*Ad-interim relief*" on 15th December, 2017.

(R.D. DHANUKA, J.)