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

NOTICE OF MOTION (L) NO. 760 OF 2017
IN
COMMERCIAL SUIT NO. 598 OF 2017

Amrik Singh Bhui & Anr.	...Applicants/Plaintiffs
vs	
K.P.Group & 4 Ors.	...Defendants

.....
Mr Tejas K. Sanghrajka a/w Mr Kayval P. Shah for the Plaintiffs
Ms Sunita M. Poddar a/w V. K. Khandare for the Defendants.
.....

CORAM : **B.P.COLABAWALLA, J.**
 NOVEMBER 27, 2017.

P.C.:

This Notice of Motion, though shown on board for ad-interim relief, by consent of parties, is taken up for hearing and final disposal.

2 This Notice of Motion has been filed in the above Summary Suit seeking an attachment before judgment of certain properties belonging to the Defendant as more particularly described in the schedule annexed to the Notice of Motion. The

claim in the present suit is for a sum of Rs.1.36 Crores (approximately). The principal amount is Rs.93,74,160/- and the claim towards interest is Rs.37,67,726/-. A claim is also made for a sum of Rs.5,20,000/- towards the stamp duty and registration charges.

3 Learned advocate appearing on behalf of the Plaintiff submitted that a clear case for attachment before judgment is made out in view of the fact that Defendant No.3 has already gifted his 50 % share in Flat No.1302, A Wing, 13th Floor, Bhoomi Sanket Co-operative Housing Society Ltd. opposite Ekta Terrace, Near Kamla Ashish Building, Mahavir Nagar, Kandivali (W), Mumbai- 400 067 to his wife, namely, Smt. Hema Dhariya Sheth. The fact that this 50 % share of Defendant No.3 has been gifted to his wife is not disputed before me.

4 Learned advocate appearing on behalf of all the Defendants states, on instructions, that the Defendants make a statement and undertake to this Court that Flat No. 703 and Flat No.704, more particularly described at items 1 and 2 to the schedule of the Notice of Motion shall not be sold, disposed of,

encumbered and further no third party rights and/or interests shall be created by the Defendants in respect of these two flats. She stated on instructions that the approximate value of Flat No.703 is Rs.75 Lacs and the approximate value of Flat No.704 is Rs.1.50 Crores. According to the learned advocate for the Defendants, an injunction with respect to these two flats alone would be more than sufficient to cover the alleged claim of the Plaintiffs. The statement made by the learned advocate for the Defendants, with reference to Flat No.703 and Flat No.704, more particularly described at items 1 and 2 of the Schedule to the Notice of Motion, are accepted as an undertaking to this Court.

5 I had also specifically inquired as to whether there were any encumbrances with reference to these two flats. Learned advocate for the Defendants has stated, on instructions, that no encumbrances of whatsoever nature have been created in relation to these two flats, namely, Flat Nos.703 and 704. This statement is also accepted as an undertaking to this Court.

6 The statement made on behalf of all the Defendants in relation to Flat No. 703 and Flat No.704 shall continue till

disposal of the suit. It has been further confirmed, on instructions, by the learned advocates for the Defendants that these two flats stand only in the names of the persons mentioned in the schedule to the Notice of Motion. This Notice of Motion is disposed of in the aforesaid terms. No order as to costs.

7 I find that this Summary Suit though lodged on 13th October, 2017, has still not been numbered. Learned advocate appearing on behalf of the Plaintiffs undertakes to this Court that the suit shall be numbered within a period of four weeks from today and thereafter follow the procedure for service of the writ of summons on the Defendants. The statement made on behalf of the Plaintiffs is also accepted as an undertaking to this Court.

(B. P. COLABAWALLA, J.)