

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

NOTICE OF MOTION NO.1072 OF 2016

IN

SUIT NO.318 OF 2016

Devidayal Stainless Steel India Pvt. Ltd.Applicants/Plaintiffs

Vs.

Housing Development and Infrastructure Ltd.Defendants

Mr. K.H. Halai a/w. Mr. Ajit Shinde i/b. Halai and Co. for the plaintiffs.

Ms. Ruchi Chitalia i/b. Markand Gandhi and Co. for the defendants.

Mr. Anil Wani, representative of defendants present.

CORAM : K.R.SHRIRAM, J.

DATE : 13th FEBRUARY, 2017

P.C.:

1 On 28th October, 2015 an ad-interim order was passed directing the defendants, pending the hearing and final disposal of the notice of motion, not to sell, alienate, encumber, create any third party rights or part with possession of flat no.2405 in the building which is being constructed by the defendants.

2 Ms. Chitalia, counsel for the defendants states that the defendants have applied for Occupation Certificate and the process for issuance of Occupation Certificate is going on and they are expected to be issued sooner than later. Ms. Chitalia further states that within one week of receiving the Occupation Certificate they shall intimate the plaintiffs about the receipt of the Occupation Certificate and also forward a copy thereof to the plaintiffs.

3 Mr. Halai, counsel for the plaintiffs states that though the order refers to arbitration clause raised by the defendants, no application under Section 8 of the Arbitration and Conciliation Act, 1996, as amended, has been taken out by the defendants. Ms. Chitalia, counsel for the defendants does not dispute this fact.

4 Ms. Chitalia, counsel for the defendants, on instructions from Mr. Anil Wani, representative of the defendants states that they shall also not sell, alienate, encumber, create any third party rights or part with possession or allot car parking spaces no.94, 95 and 96 in basement four of the building, viz., Metropolis to any third part and will be kept reserved for plaintiffs. Statement accepted.

 Therefore, this statement of Ms. Chitalia and the order dated 28th October,2015 is confirmed as order in the notice of motion and the notice of motion accordingly stands disposed.

5 Once the Occupation Certificate is issued or if there are any other change in circumstances, the plaintiff is at liberty to move this court for appropriate reliefs.

(K.R. SHRIRAM, J.)