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IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

APPEAL NO.211 OF 2017

IN

NOTICE OF MOTION NO.1407 OF 2014

IN

SUIT NO.636 OF 2014

Bobby Pandurang Nayak

..Appellant.

V/s.

Tridhaatu Ventures LLP & Ors.

..Respondents.

Mr.D.D.Madon, Senior Advocate i/b. Mr.D.S.Mahamumni for the Appellant.

Mr. Bhushan Deshmukh with Mr.Vishesh Kalra with Ms.Chaitrika Patki with Ms.Neha Joshi i/b. Vidhi Partners for Respondent No.1.

Mr.Niranjan Jagtap i/b. Niranjan Jagtap & Co. for Respondent Nos.2, 3 & 5.

***CORAM: R.M. SAVANT AND
SARANG V. KOTWAL, JJ.***

DATE : NOVEMBER 14, 2017

PC.:-

The above Appeal takes exception to the order dated August 24, 2016 passed by the learned Single Judge of this Court (S.J.Kathawalla, J.) by which order the application for ad-interim reliefs in the Notice of Motion filed by the Appellant came to be rejected. It

seems that the instant rejection is the second rejection of the application for ad-interim reliefs.

2. The Appellant who is the original Plaintiff has filed the Suit in question for specific performance of the Agreement to Sale dated May 17, 1977. In the said Suit, the Appellant had filed the above Notice of Motion for interim reliefs which was moved for ad-interim reliefs. The learned Single Judge has rejected the application for ad-interim reliefs by taking note of the subsequent events which have been recorded by the learned Single Judge in the impugned order and which events according to the learned Single Judge disentitle the Appellant to any ad-interim reliefs. The learned Single Judge has also observed that the Appellant who had constructed a building wherein the flats were sold to the flat purchasers had failed to comply with his obligations under the Maharashtra Ownership Flats (Regulation of the Promotion of Construction, Sale, Management and Transfer) Act, 1963. ('MOFA' for short) in the matter of forming a Co-operative Society and also in the matter of obtaining conveyance from the original owners. The learned Single Judge has adverted to the fact that it is only after the demolition of the original building and amalgamation of the plots on which the building was situated with other adjoining plots and development of the 2amalgamated plots being undertaken by the Respondent No.1 that the

Appellant chose to file the instant Suit for specific performance of the Agreement dated May 17, 1977. The learned Single Judge also has adverted to the fact that substantial construction has already been put up on the amalgamated plots and that the Respondent No.1 has already spent more than Rs.78 crores. It is required to be noted that specific performance of the Agreement for Sale dated May 17, 1977 is sought after more than 35 years of the said Agreement. In our view, the order passed by the learned Single Judge, having regard to the events which have been recorded in the impugned order, a gist of which has been reproduced in the instant order, cannot be found fault with. There is no merit in the above Appeal, which is accordingly dismissed.

3. However, at the request of the learned Senior Counsel appearing for the Appellant, the hearing of the Notice of Motion is expedited.

(SARANG V. KOTWAL, J.)

(R.M.SAVANT, J.)