IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

APPEAL FROM ORDER (STAMP) NO.8935 OF 2018
WITH
CIVIL APPLICATION (STAMP) NO.8936 OF 2018
AND
CIVIL APPLICATION (STAMP) NO.8937 OF 2018

Shri Matanshankar Chunnilal Gupta ..Appellant

vs.

M/s.Lokhandwala Kataria Construction Private Limited and Ors. ...Respondents

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Mr. Amarendra Jha for the Appellant .
None for the Respondents.

CORAM : V. M. DESHPANDE, J.

DATE : 16th JULY, 2018

P.C.:

. Heard Mr. Jha, learned counsel for the appellant. The present appeal is carried against the order passed by learned Judge of the City Civil Court, Greater Bombay dated 3/2/2018 in Notice of Motion No.940/2016 in S.C. Suit No.452/2016. By the impugned order the Court below has dismissed the said Notice of Motion. Learned counsel submitted that the appellant has no quarrel about the payment of hardship compensation. According to him as per the development agreement between the plaintiff and the Respondent No.1-builder, the builder was suppose to keep one shop facing main road i.e. J. R. Bhoricha Marg. He therefore says that it was obligatory on the part of the Court below to grant prayer clause (c) to the Notice of Motion.

2. The prayer clause (b) in the plaint reads as under:

> "That this Hon'ble Court be pleased to pass an order and decree directing the Defendants to speifically perform the obligations as contained in the Agreements annexed as Exhibit-"F" Colly to the plaint and handover possession of the Permanent Alternate Accommodation to be allotted to the Plaintiff in lieu of the suit premises in the reconstructed building on the main Road i.e. facing J. R. Bhoricha Marg and to perform the other terms and conditions of the said Agreements including making payment of amount of Hardship Compensation"

3. Thus, claiming the shop facing main road to is the main prayer that the appellant/plaintiff is claiming in the suit.

4. The parties have yet not joined the trial. The main relief which the plaintiff is claiming in my view is not rightly granted by the Court below. I see no perversity in the impugned order passed by the Court below. Appeal is rejected and is accordingly disposed of. All pending Civil Applications are also disposed of.

(V. M. DESHPANDE, J)