IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

APPEAL NO.124 OF 2018
IN
NOTICE OF MOTION NO.1525 OF 2014
WITH
NOTICE OF MOTION NO.1559 OF 2017
IN
SUIT NO.962 OF 2014

M/s.Electronfab Engineering Pvt.Ltd. ...Appellant
Versus
1.Runwal Constructions. & Anr. ...Respondents

WITH
Notice of Motion No.269 of 2018

Mr.Ankit Lohia with Ms.Ipshita Sen, Mr.Praveen Kejriwal i/b. Gagrats, for the Appellant.

Mr.Sharan Jagtiani with Mr.Nirman Sharma, Ms.Pinky Patel, Mr.Sahil Harjani I/b. M/s.Desai & Diwanji, for Respondent Nos.1 and 2.

CORAM: NARESH H.PATIL AND G.S.KULKARNI, JJ

DATED: 2nd July, 2018

P.C.:

1. The learned Counsel for the respective parties placed on record Minutes of Order signed by the parties as also signed by their respective advocates for identification purpose. The learned Counsel

submit that the appeal be disposed of in terms of the Minutes of Order. The Minutes of Order is taken on record and marked "X" for identification purpose. Paragraph 1 of the Minutes of Order reads thus:-

> "The Respondents shall, pending the hearing and final disposal of the Suit, reserve and earmark an FSI equivalent to 14,306 sq. ft. carpet area (representing the aggregate area of the suit flats), in respect of the said land (as described in Exhibit B to the Plaint) and when used in the construction of the building located in the north corner of the suit land (numbered as building no. 5 (A1) in the amended layout plan approved on 26 July 2017 or as may be modified) carpet area of 14,306 sq. ft. in that building. The Respondents undertake not to transfer, alienate, deal with, dispose of or encumber or create any third-party rights over such reserved and earmarked FSI/ carpet area of 14,306 sq. ft. It is, however, clarified that the aforesaid terms will not prevent or preclude the Respondents from creating any encumbrance over the suit land/plot."

2 In case the parties agree for mediation, they are free to refer the matter to the Mediator.

3. The appeal is accordingly disposed off.

4. As the appeal is disposed of, nothing survives in the pending Notice of Motion No.269 of 2019. It is accordingly disposed of.

(G.S.KULKARNI, J.) **(NARESH H. PATIL, J.)**