

Shephali

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
NOTICE OF MOTION NO. 171 OF 2018
IN
CHAMBER SUMMONS NO. 870 OF 2008
IN
COURT RECEIVER'S REPORT NO. 204 OF 2007
IN
NOTICE OF MOTION NO. 1706 OF 1998
IN
SUIT NO. 1815 OF 1998

Adani Exports Ltd	...Plaintiff
<i>Versus</i>	
Kamlaben Mansukhlal Desai & Ors	...Defendants
<i>And</i>	
Viral M Mithani & Ors	...Respondents

Mr Zubin Behramkamdin, *with Vyom Shah, Nayna Rane, Nitesh Meno, i/b Divya Shah Associates, for the Plaintiff.*
Mr Pramodkumar, *i/b M/s. Pramodkumar & Co, for the Defendant No. 1.*
Mr JJ Shah, *for Respondents Nos. 2 & 3.*

CORAM: G.S. PATEL, J
DATED: 13th February 2018

PC:-

1. Flat No. A-7, 2nd Floor, Muni Survat Darshan Co-operative Housing Society Limited, Naoroji Lane, Ghatkopar, Mumbai 400 086 is the subject matter of this Chamber Summons. The Plaintiff is the Applicant. It seeks to be put in possession of the flat and on as-is-where-is basis along with some other basis described as “as is what is”. I do not claim to understand what the latter expression means. I only note that this is in the prayer and in the Court Receiver’s order of 12th October 2017 at Exhibit “K” at pages 44-45.

2. There is no doubt that the Receiver has been appointed of this flat and that the Plaintiff is entitled to occupy the flat as an agent of the Receiver without security or royalty. There is some controversy about a partition wall in this flat which was put up to divide it from adjacent flats. Those adjacent flats are A-8 and A-9. These have been sold in separate DRT proceedings. Whatever may be the result of this, I am not today deciding whether the Plaintiffs are correct in saying that the area of the present flat is subject to an adjustment of area from any one of the adjacent flats, given the Plaintiffs’ case that Flat A-7 was improperly or wrongfully reduced in area on account of that partition wall being put up and is one bedroom short. Presumably, this is covered by the expression “as-is-where-is” and also “as-is-what-is”.

3. The Receiver seeks directions. None are strictly necessary. The Notice of Motion is made absolute in terms of prayer clause (a).

(G. S. PATEL, J)