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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
NOTICE OF MOTION NO. 388 OF 2018
IN
SUIT NO. 742 OF 2015

Vimal Properties and Associates through the proprietor Mr Amool S Rokade	...Applicant
<i>In the matter between</i>	
Nitin S Thakur Alias Mr Nitin C Patil and Ors	...Plaintiffs
<i>Versus</i>	
Neela Y Thakoor and Ors	...Defendants

Ms Seema Sarnaik, *with Mr Ameya Tamhane, for the Plaintiffs.*
Ms Zenobia Irani, *with Mr Prashant Tikare, for Defendants Nos. 1 to*
6.
Ms Shaila Pathak, *i/b Pathak Associates for Defendant No.7 and*
Applicant in Notice of Motion No. 388 of 2018.

CORAM: G.S. PATEL, J
DATED: 18th April 2018

PC:-

1. The application is to vacate an order dated 31st January 2018 (SC Gupte J). Framed in that fashion, the application itself is misconceived for the simple reason that when, by his speaking order of that date, Gupte J granted an ad-interim injunction in terms of prayer clause (a) in paragraph 5, he said that Defendants would be at liberty to apply to have that ad-interim injunction vacated “by

proposing an alternative security in respect of the property claimed by the Plaintiffs” in this partition Suit.

2. The submission is that the building is dilapidated. The submission is also that on some ad-hoc estimate made by 7th Defendant supported by Defendants Nos. 1 to 6 (the owners), some amount will be deposited and undertakings given in regard development permissions such as an IOD and a CC. This, I believe, is not at all what was contemplated by Gupte J’s order or the liberty reserved in paragraph 5. The reason is self-evident and it appears in paragraph 2 of that order where the family relations are traced and the manner in which the Plaintiffs derive their claim is also set out. It is one thing if the parties agreed on an amount and then there is a question as to what would suffice as adequate security. Another possibility is to provide for the maximum possible that the Plaintiffs could claim having regard to the Suit as filed. But to suggest some completely random number and to say that the Plaintiffs should accept this, is, I think, doing violence to the language of Gupte J’s order, and that I will not do. The Motion is dismissed. No costs.

3. Liberty to the Defendant to file a fresh Motion for appropriate reliefs.

4. All Affidavits to be filed in the registry.

(G. S. PATEL, J)