

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
IN ITS COMMERCIAL DIVISION**

**NOTICE OF MOTION NO.231 OF 2016
IN
SUIT NO.416 OF 2016**

Sunil M. Khadawala and Anr. ... Applicants/Plaintiffs
versus
M/s. Contemporary Builders Pvt. Ltd. And Ors. ... Defendants

Ms. Nichani i/by Mr. Amit Sheth, for Plaintiffs.
Mr. Sanjiv Sawant, for Defendant Nos.1 to 3.

CORAM: S.J. KATHAWALLA, J.

DATE: 12th FEBRUARY, 2018

P.C.:

1. Heard the learned Advocates for the parties and by consent, the following order is passed :

(i) The shop as shown in the plan annexed as Exhibit B to the additional Affidavit filed by the Defendants dated 8th February, 2018 shall be constructed by the Defendants and after completion of the same and obtaining occupation certificate, the Defendants shall handover the same to the Plaintiffs. In lieu thereof, the Plaintiffs shall on or before 23-03-2018 deposit an amount of Rs.37,50,000/- with the Prothonotary and Senior Master of this Court. The Defendants shall be at liberty to withdraw the said amount of Rs.37,50,000/- along with accrued interest, upon handing over the said shop to the Plaintiffs, without further reference to this Court.

(ii) The Defendants have also agreed to construct and handover the suit flat to the Plaintiffs as shown in Exhibit A to the additional Affidavit filed on behalf of the Defendants dated 08-02-2018.

(iii) The Defendants undertake to submit on or before 23-03-2018 the amended plan to the MCGM seeking approval of the Corporation to construct the flat as shown in Exhibit A to the additional Affidavit. The Corporation shall decide the Application seeking approval within 60 days from the date of receipt of the same. Upon the Corporation approving the same, the said approval shall be conveyed to the Plaintiffs and within 40 days therefrom, the Plaintiffs shall deposit the said amount of Rs.52,50,250/- with the Prothonotary and Senior Master. The Defendants shall be at liberty to withdraw the said amount of Rs.52,50,250/- along with accrued interest upon handing over the said flat to the Plaintiffs, without further reference to this Court.

(iv) The Prothonotary and Senior Master shall invest both the amounts i.e. Rs.37,50,000/- and Rs.52,50,250/- in fixed deposits of a nationalized bank/s for a period of one year and thereafter, renew the same for one year at a time.

(v) Before signing the order, my attention is drawn to a letter dated 03-03-2018 addressed by the Plaintiff to the Prothonotary and Senior Master. The Plaintiff has expressed regret for addressing the said letter directly to the Prothonotary and Senior Master and unconditionally withdraws the same.

(vii) In view of the above order, the Notice of Motion is disposed of.

(viii) Liberty to apply.

(S.J.KATHAWALLA, J.)