

Urmila Ingale

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
NOTICE OF MOTION NO. 194 FO 2018
IN
WRIT PETITION (L) NO. 340 OF 2018

Mr.Kantibhai Balubhai Waghela and anr. .. Applicants

In the matter between

Mr.Ashok Vithoba Chavan and ors. .. Petitioners

Vs.

NKGSB Co-operative Bank Limited and ors. .. Respondents

Ms.Roshni Naik a/w Mr.Mayur Kadam, for the Petitioners.
Mr.B.S.Shukla, for Applicants /Respondents.

CORAM : A.A.SAYED &
M.S.KARNIK, JJ.
DATE : 25th JULY 2018

P.C. :

. The Writ Petition (L) No. 340 of 2018 is already
disposed of vide order dated 02/02/2018.

2. Pursuant to order dated 04/05/2018, the possession
of the flat in question has been handed over to Purchasers -
Respondents No.2 & 3 on 21/05/2018. In the circumstances,

prayer clause a(i) of the Notice of Motion, which is taken out by the Purchasers – Respondents No.2 & 3 is already worked out.

3. In the aforementioned order dated 04/05/2018 we have recorded that the Petitioners have certain monetary claims against the Purchasers - Respondents No.2 & 3. We prima facie find that the Purchasers - Respondents No.2 & 3 have paid more than Rs. 48 lacs to the Petitioners, whereas under the Agreement for Sale between the Petitioners and the Purchasers - Respondents No. 2 & 3, the consideration amount was admittedly Rs. 42 lacs. According to the learned Counsel for the Petitioners, the Purchasers - Respondents No. 2 & 3 had delayed the payments and are required to pay more money to the Petitioners. It is however prima facie seen that in the Undertaking dated 02/02/2018 given by the Petitioners to this Court, no amounts are mentioned as due to them from the Purchasers- Respondents No.2 & 3.

4. Be that as it may, in the event, the Petitioners have

any monetary claim against the Purchasers - Respondents No 2 & 3, it will be open for them to file appropriate proceedings since it is not possible for this Court to adjudicate upon this disputed question of facts.

5. The Notice of Motion filed by the Purchasers – Respondents No.2 & 3 is allowed in terms of prayer clause (a) (ii) which reads as under :

“directing the Respondent No.1 to issue no dues certificate and also hand over original title deed deposited with them in respect of said flat, viz.Flat No. D-302, 3rd floor, Nirmal CHS Ltd., Western Express Highway, Opp.Gulfam Hotel, Dahisar (East), Mumbai-400 068, to the Applicants.”

So far as prayer clause a(i) is concerned the same has already been worked out as recorded earlier.

6. The Respondent - Bank shall hand over the original title deeds to the Purchasers - Respondents No. 2 & 3 within a period of 3 weeks from today.

7. The Notice of Motion is disposed of accordingly.

(M.S.KARNIK, J.)

(A.A.SAYED, J.)