

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
TESTAMENTARY AND INTESTATE JURISDICTION
NOTICE OF MOTION (L) NO. 254 OF 2016
IN
MISC. PETITION NO. 149 OF 2016
IN
TESTAMENTARY SUIT NO. 64 OF 2007
IN
TESTAMENTARY PETITION NO. 571 OF 2007

Kamlesh Himmatlal Shah & Ors. Applicants

IN THE MATTER BETWEEN

Kamlesh Himmatlal Shah & Ors. Plaintiffs

VERSUS

Jaswantlal Mohanlal Khandar & Ors. Defendants

AND

**The Court Receiver, High Court,
Bombay & Ors. Respondents**

Mr. Tejas Vora, a/w. Mr. D. R. Mishra, Mr. Sagar Seth, i/b. Mr. D. R. Mishra
for the Applicants/Plaintiffs.

Ms. Vaishali Sharma, i/b. Harakhchand & CO. for the Defendants.

Ms. Rita Bhatia for the Respondent no. 3 Society.

Mr. Kedar Dighe, A.G.P. for the State.

Mr. Mehul Shah for the Respondents.

CORAM : R.D. DHANUKA, J.

DATE : 5th DECEMBER, 2018

P.C.

By an order dated 10th October, 2018 passed by Shri G.S. Patel, J., this court had issued various directions in respect of the sale of the flat situated at Vaibhav Building at 80, Bhulabai Desai Road, Breach Candy, Mumbai – 400 026 including a stilt parking no.2A in that building and open parking space also bearing no.2A.

2. Learned counsel appearing for the applicants and the respondent no.2 purchaser jointly state that all the directions issued by this court by the said order are already complied with except the directions issued in paragraph (8) of the said order stating that the necessary permission from the society will be obtained by that date.

3. Ms. Bhatia, learned counsel appearing for the society states that at this stage, parties are not required to obtain any NOC from the society in respect of the flat in question. The stage for making an application for NOC would arise only after the agreement is executed and sale is confirmed by this court. Statement is accepted.

4. Mr. Shah, learned counsel appearing for the respondent no.2 purchaser states that balance consideration payable under the sale confirmed by this court would be deposited with the Court Receiver within 15 days from today. Statement is accepted.

5. Upon deposit of the balance consideration, the executors would execute a sale deed in favour of the respondent no.2 (purchaser) and

would get the document stamped within two weeks from the date of deposit of the balance consideration.

6. If the flat purchasers applies for transfer of the flat and the membership to the society, the society shall consider the said application on its own merits and in accordance with law.

7. The request made by the learned counsel for the society for payment of exemplary cost is rejected. Notice of motion is disposed of in the aforesaid terms. No order as to costs.

8. Upon registration of the sale deed, the vacant possession of the aforesaid premises shall be handed over by the executors to the purchasers simultaneously.

[R.D. DHANUKA, J.]