

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORIGINAL SIDE CIVIL JURISDICTION

NOTICE OF MOTION NO.720 OF 2018

IN

SUIT NO.441 OF 2018

Vijay Uggappa Shetty

..Plaintiff

Versus

The Secretary, Mahavir Nagar Tri Star CHS Ltd. & Anr. ..Defendants

Mr.Karl Tamboly I/by Mr.Y.R. Shah, for the Plaintiff.

Mr.Kushalkumar D. Shukla, for Plaintiff's mother.

Mr. Mukesh J. Sangani, for defendant No .1.

Mr.Kunal Kumbhat i/by Ms.Sunanda Kumbhat for respondent No.2.

CORAM : S.J. KATHAWALLA, J.

DATED : 11th June, 2018

P.C.:

1 Heard the learned Advocates appearing for the parties.

2 The order dated 6th June 2018 is clarified to the following effect :

1. It is clarified that upon redevelopment the developer shall hand over possession of the new flat jointly to the mother and the son (Plaintiff herein). However, if the mother files any proceedings against the Plaintiff and obtains any order, the final order passed by the Court shall be binding on the parties. However, the siblings of the Plaintiff shall not be entitled to the flat.

2 Rest of the order dated 6th June 2018 shall remain same.

3 The plaintiff has contended that in future his mother is not entitled to any share in the compensation received from the Developer. However, the Court has suggested that the Plaintiff should pay an amount of Rs.15,000/- per month to the mother from the monthly compensation received from the Developer in lieu of temporary alternate accommodation in future. Both the parties have accepted the suggestion. In view thereof, the Plaintiff shall upon receipt of the cheque from the developer get the same encashed and hand over to his mother Rs.15,000/- per month within 7 days, from the date of encashment.

4 The Agreement to be executed between the Society and the Plaintiff shall be in identical terms with the agreements filed by the Society with other members. However, it will be clarified in the Agreement that this Court has passed orders dated 6th June 2018 and the present order dated 11th June 2018, which are binding on the parties and the same shall be annexed to the Agreement.

5 As far as the claim of the Society against the Plaintiff is concerned, the society shall be at liberty to take out appropriate proceedings, which proceedings if taken out shall be decided on its own merits.

6 With the consent of the parties, the suit is disposed of.
Notice of Motion No.720 of 2018 is also disposed of.

7 Refund of Court fees as per Rules. Liberty to apply.

(S.J.KATHAWALLA, J.)