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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
NOTICE OF MOTION (L) NO. 1421 OF 2017
IN
SUIT NO. 553 OF 2017**

Edward Fredrick D'Souza & Anr	...Plaintiffs
<i>Versus</i>	
Genevieve Roy D'Souza & Ors	...Defendants

Mr Nusrat Shah, *with Mr Kevin Gala, S Shah & Ms Richa Pachori,*
i/b Naazish Nusrat Shah, for the Plaintiffs.
Ms Brenda D'Souza, *for Defendants Nos. 1 to 5.*
Mr BR Zaveri, *for Defendants Nos. 8 and 9.*
Ms Aarti Taware, *i/b Mr Milind More, for Defendants Nos. 10 and 11*
(SRA).

CORAM: G.S. PATEL, J
DATED: 12th July 2018

PC:-

1. The Suit seeks reliefs on the basis that a property at CTS Nos. 2760, 2761 and 2761/1 at village Vakola is one in which the Plaintiffs have an inherited share. The main prayer is for partition.

2. The Motion seeks ad-interim reliefs including an injunction against the further construction as also a direction against Defendants Nos. 1 and 2 to render accounts. It is pointed out by

Defendants Nos. 8 and 9 that they are the developers of a slum rehabilitation project that covers the entire suit property. The Plaintiffs have already complained to the Slum Rehabilitation Authority (“**SRA**”) and, it appears that the SRA is aware of this complaint. I do not propose to interfere with those proceedings before the SRA. Apart from anything else paragraph 7 of the Plaintiffs’ Statement says that the suit property falls under the Maharashtra Slum Areas (Improvement, Clearance and Redevelopment) Act 1971. There can, therefore, be no restraint against the construction or development and it is for the SRA to decide what further steps should be taken. I am informed that the SRA had issued a temporary stop work notice to the developers and this has subsequently been withdrawn.

3. Since the contesting Defendants Nos. 1 to 7 claimed certain rights, the developers, Defendants Nos. 8 and 9 entered into the agreement with Defendants Nos. 1 and 2, and it seems that the consideration was an assurance of being provided a flat and two car parking spaces in the free sale building to be constructed as part of the sanctioned slum rehabilitation project. Defendants Nos. 1 and 2 have filed a Written Statement, in paragraph 8 of which these Defendants have admitted that the Plaintiffs are the legal heirs of the original owners along with the Defendants Nos. 1 to 7. In that view of the matter, the only order that is necessary at this stage is to direct the Defendants Nos. 8 and 9 not to deliver possession of the reconstructed flat to Defendants Nos. 1 to 7 without prior leave of this Court obtained after at least three weeks’ notice to the Advocates for the Plaintiffs and the Advocates for Defendants Nos. 1 to 7.

4. A statement is made by Ms D'Souza on behalf of Defendants Nos. 1 and 2 that no amount has been received by them from Defendants Nos. 8 and 9. The statement is noted and accepted. It is made on instructions from Defendants Nos. 1 and 2 who are personally present in Court when this statement is made.

5. In this view of the matter there is no immediate cause to grant an order in terms of prayer clause (a) for disclosure of any accounts. However I will reserve liberty to the Plaintiffs to apply.

6. Parties are agreed that this order will dispose of the Notice of Motion. The Notice of Motion is disposed of in these terms. No order as to costs. Further liberty to the Plaintiffs to approach the SRA for such remedies as are available to the Plaintiffs in accordance with law. The SRA will decide any such application on its own merits uninfluenced by the present order.

(G. S. PATEL, J)