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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
NOTICE OF MOTION NO. 1634 OF 2017
IN
APPEAL NO. 595 OF 2016
IN
NOTICE OF MOTION (L) NO. 666 OF 2015
IN
SUIT NO. 431 OF 2015

Runwal Residency Private Ltd.

.. Applicant

In the matter between

Runwal Residency Private Ltd.

.. Appellant

Vs.

Metropolitan Infra Housing Pvt. Ltd.

.. Respondent

Mr. Ravi Kadam, Senior Advocate with Mr. Nikhil Sakhardande, Mr. Denzil Arambhan, Ms. Apeksha Munot i/by Wadia Gandy & Co. for applicant-appellant.

Mr. V. A. Thorat, Senior Advocate with Mr. Vaibhav Sugdhare and Mr. Durgaprasad Poojari i/by PDS Legal for respondent.

Mr. Dinyar Madan, Senior Advocate with Mr. Rajeev Carvalo, Mr. Sachin Chandrana and Mr. Rohit Lalwani i/by M. K. Ambalal & Co. for applicant in NMA/1015/2017.

CORAM: NARESH H. PATIL &
G. S. KULKARNI, JJ.

FEBRUARY 28, 2018.

P.C.

1. The applicant-original appellant prays for withdrawal of amount of Rs.100 crores deposited with the Registry of this court and/or

for substituting the said amount by furnishing bank guarantee. The learned Senior Counsel Mr. Kadam submits that the amount was deposited on 9/1/2017.

2. By an order dated 27/10/2016 the Division Bench of this Court (Coram: Dr. Manjula Chellur, C.J. & M. S. Sonak,J.) passed order directing the appellant herein to deposit the amount. Para 4 of the said order reads as under:-

“4. In order to have the extension of the status-quo order or the interim order already granted way back in 2015, we direct the appellant to deposit Rs.100 crore with the Prothonotary and Senior Master of this Court within six weeks from today. The status-quo order already granted will continue for a period of six weeks, so as to enable the appellant to deposit Rs.100 crore in this Court, failing which, the status-quo order shall automatically come to an end.”

3. It is submitted during the course of hearing that the said order dated 27/10/2016 was subject matter of Petition(s) for Special Leave to Appeal (C) No(s). 34177 of 2016. By an order dated 14/12/2016 the Apex Court passed following order :-

“ Heard learned counsel for the parties.
The special leave petition is dismissed.
Counsel for the petitioner is granted four weeks' time to deposit the amount of Rs.100 Crores (Rupees hundred crores) as directed by the High Court.
Pending applications, if any, stand disposed of.”

4. The learned Senior Counsel Mr. Thorat appearing for the respondent has opposed both the reliefs prayed for on behalf of the applicant. The learned counsel submitted that the suit property, as on today, is worth of Rs.1500 crores and even on merits there is no case made out by the applicant-appellant for seeking withdrawal of the said amount.

5. The learned Senior Counsel Mr. Madan appearing for applicant in Notice of Motion No. 1015 of 2017 submits that the applicant has to receive an amount of more than Rs.70 crores.

6. We have perused the record placed before us and the relevant orders passed earlier. In the facts, we are not inclined to accept the prayers made on behalf of the applicant-appellant for withdrawal of amount or for substituting the amount by furnishing bank guarantee.

7. The Notice of Motion No. 1634 of 2017 stands rejected.
8. The learned Senior Counsel appearing for the appellant submits that the appeal may be listed for final hearing. In view of the pendency of the old matters, for the present, we are not inclined to fix the appeal for final hearing. Liberty to mention at an appropriate stage.

(G. S. KULKARNI J.)

(NARESH H. PATIL,J.)