

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
IN ITS COMMERCIAL DIVISION**

**COMMERCIAL NOTICE OF MOTION NO.681 OF 2018
IN
COMMERCIAL APPEAL (L) NO.361 OF 2018
IN
CHAMBER SUMMONS (L) NO.495 OF 2018
IN
COMMERCIAL EXECUTION APPLICATION (L) NO.673 OF 2018
IN
SUIT NO.345 OF 2015**

Pujit Ravikiran Aggarwal

And Others

... Applicants/Appellants

Versus

Vardhman Developers Ltd

And Others

... Respondents

Mr. Chirag Balsara a/w Mr. Chinmaya Acharya & Mr. Sumit Phatale for Appellants.

Mr. D. D. Madan, Senior Advocate a/w Mr. Karl Tamboly, Ms. Kausar Banatwala & Ms. Gauri Sakhardande i/b Tushar Garodia for Respondent No.1.

Mrs. Kavita Amberkar, 1st Assistant Court Receiver, present.

**CORAM : SHANTANU KEMKAR &
SARANG V. KOTWAL, JJ.**

RESERVED ON : SEPTEMBER 10, 2018

PRONOUNCED ON : SEPTEMBER 25, 2018

ORDER : (Per SARANG V. KOTWAL, J.)

. This Notice of Motion is preferred by the Applicants/Appellants for liberty to produce additional documents in the commercial appeal. The documents are mentioned in the affidavit in support of the Notice of Motion.

2 In paragraph 6 of the said affidavit, two documents are mentioned, i.e. conveyance dated 7 March 2002 and share certificate issued in favour of Mrs. Gunjan P. Aggarwal in respect of Flat No.902 B of Angel, Gamdevi. It is not the case of the Appellants that they suddenly discovered these documents. In paragraph-4 of the affidavit in support of the Notice of Motion, it is mentioned as :-

“4. I say that the right, title and interest in respect of Flat No.902 B has been transferred in favour of Mrs. Gunjan P. Aggarwal by a registered Conveyance dated 7 March 2002. I further say that the Share Certificate in respect of the said flat has also been transferred in the name of Mrs. Gunjan P. Aggarwal. I say that the Appellants due to bonafide reasons were prevented from producing the said documents before the Learned Single Judge. I crave leave to refer to and rely upon the copies of the said documents.” (Emphasis supplied).

3 What these 'bonafide reasons' might be, are not mentioned in the entire affidavit in support of the Notice of Motion. We do not see how these averments satisfy the requirement of Order XL Rule 27 of the Code of Civil Procedure, 1908.

4 Therefore, the Notice of Motion is dismissed and these documents are not taken on record for consideration in Commercial Appeal (L) No.361 of 2018.

[SARANG V. KOTWAL, J.]

[SHANTANU KEMKAR, J.]