

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

**NOTICE OF MOTION NO. 614 OF 2012
IN
SUIT NO. 176 OF 2012**

Pratima Chandrashekhar Singh and Pratima
Construction

....Plaintiff

V/s.

Parag CHS Ltd.

....Defendant

Mr. S.C. Patel for the plaintiff/applicant.
None for the defendant.

**CORAM: SMT. ANUJA PRABHUDESSAI, J.
DATED : 19th MARCH, 2019.**

P.C.:

. The plaintiff has filed this Notice of Motion seeking to restrain the defendant in acting upon the termination and cancellation of development agreement and power of attorney dated 28/04/2006 and Notice dated 03/12/2008.

2. The plaintiff had entered into a development agreement dated 28/04/2006 with the defendant-society. In terms of the said agreement, the plaintiff was required to re-develop the said property by constructing buildings thereon within 18 months from the date of issue of Commencement Certificate for the ground floor or first floor and in any case not more than 24 months. The plaintiff did not commence the

construction and hence, by notice dated 06/03/2010, the defendant/society terminated the agreement. The notice clearly states that the plaintiff had not carried out any development work on the subject plot and that this fact was brought to its notice by legal notice dated 03/12/2008 indicating that development agreement would be cancelled and revoked. The defendant-society has stated that despite the earlier notice dated 03/12/2008, the plaintiff did not commence the construction and hence, terminated the agreement. The records prima facie indicates that the plaintiff had not commenced any construction from the year 2006 i.e. from the date of the development agreement till the date of termination i.e. 06/03/2010. The plaintiff has also filed the suit after a period of two years from the date of termination.

3. The plaintiff has failed to establish prima facie case. Considering the aforesaid facts and particularly the delay in filing the suit, in my considered view, the plaintiff is not entitled for interim relief as prayed. Notice of Motion is therefore dismissed.

4. At this stage, the learned counsel for the plaintiff states that the hearing of the suit be expedited. Considering the large pendency of the

old cases, the prayer for expediting the hearing of the suit stands rejected.

(SMT. ANUJA PRABHUDESSAI, J.)