

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

**NOTICE OF MOTION NO. 220 OF 2017
IN
WRIT PETITION NO. 1408 OF 2014**

Zakir Nanabhai Ghadiyali	}	Applicant
in the matter of		
Balbhai Tambe and Ors.	}	Petitioners
versus		
Maharashtra Housing and Area	}	
Development Authority	}	
and Ors.	}	Respondents

Mr.A.G.Damle-Senior Advocate with
Mr.K.R.Parekh I/b. M/s.K.R.Parekh and
Co. for the applicant.

Ms.Uma Sharma I/b. M/s.Dharam and co.
for the petitioners.

Ms.Sayli Apte I/b. Mr.P.G.Lad for
respondent nos. 1 to 3.

Mr.Sharad Wakchoure I/b. M/s.Kishore
Thakordas and Co. for respondent no.8.

Mr.H.B.Takke-AGP for respondent no. 9.

**CORAM :- S. C. DHARMADHIKARI &
DR. SHALINI PHANSALKAR-JOSHI, JJ.**

DATED :- JANUARY 25, 2019

P.C. :-

1. When this notice of motion was placed before us, Ms.Sharma appearing for the original petitioners states that the suit, which is referred to in para 7 of our order and with regard to which this clarification is sought, has since been dismissed.

2. Mr.Damle learned senior counsel appearing in support of this motion submits that this dismissal is after the filing of the instant notice of motion. He would also submit that possibly the dismissal is because of the observations in para 7 of the order sought to be modified by the applicants.

3. We cannot presume that this order has resulted in dismissal of the suit. Secondly, we do not have anything before us by which we can presume that the learned Trial Judge dismissed the suit by referring or relying on our order. In the event that order, dismissing the suit, is sought to be recalled or questioned and in such proceedings, our order presents any difficulty for the applicants, none prevents them from then seeking a clarification or modification of this order. Presently, in view of the dismissal of the suit, nothing would survive in this notice of motion. It is disposed of with liberty reserved as above.

(DR. SHALINI PHANSALKAR-JOSHI, J.) (S.C.DHARMADHIKARI, J.)