

Ladda

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

Radhakishan
S. Ladda

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Date: 2019.08.09
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**NOTICE OF MOTION NO. 400 of 2016
IN
SUIT NO.770 of 2014.**

Somchand Hirji Maru ..Applicant.

In the matter between:-

Somchand Hirji Maru ..Plaintiff.

Vs

Omkar Spaces Pvt. Ltd. & Ors ..Defendants.

Mr. J.S. Kini a/with Ms. Sapna Krishnappa i/by
Mr. Suresh Dubey for Applicant/Plaintiff.

Ms. Asha Nair i/by Diamondwala & Co. for
Defendant Nos. 1 to 3.

Mr. Paras S. Gosar i/by Mr. Jayesh R. Vyas for
Defendant No.9.

CORAM : B. P. COLABAWALLA, J.

DATED :- 7th AUGUST, 2019.

P.C. :-

1. The learned Advocate appearing on behalf of the plaintiff as well as the learned Advocate appearing on behalf of defendant Nos. 1 to 8 have tendered consent minutes of order dated 30th July, 2019. The consent minutes of order have been signed by defendant No.1 through its Constituted Attorney Mr. Vijay Kunder as well as Advocate appearing for defendant Nos. 1 to 8. Similarly, the minutes

of order have been signed by the plaintiff as well as his Advocate.

The said minutes of order reads thus :-

“MINUTES OF ORDER

B.P. COLABAWALLA,J

30th July, 2019.

Adv. J.S. Kini a/with Adv. Sapna Krishnappa, i/by Adv. Suresh Dubey for plaintiff.

Adv. Asha Nair i/by M/s Diamondwala & Co. for defendant Nos. 1 to 8.

1. In view of the statement made by the Advocate for the defendant No.9 of they not having any claim in the Convenient Shop NR-Sale admeasuring approx. 198 sq.ft. (18.39 square meter) facing Bhagoji Keer Marg as shown demarcated in blue colour on the Plan being Annexure “1” hereto now being available for allotment hereinafter referred to as “the said Shop”, plaintiff seeks to delete the name of the Defendant No.9 from the suit, which is also not opposed by the Defendant Nos. 1 to 8 and therefore allowed. Defendant No.9's name to stand deleted from the suit. Plaintiff is directed to carry out the amendments forthwith.

2. In view of the said Shop now being available for allotment, the Defendant Nos. 1 to 8 do not have any objection if the said Shop is given to the Plaintiff, in lieu and instead of Shop/NR-Rehab admeasuring approx. 298.48 square feet, which was to be allotted as permanent alternate accommodation to the plaintiff by the Defendant Nos. 1 to 8 earlier.

3. Plaintiff hereby accepted Convenient Shop NR – Sale admeasuring approx. 198 sq.ft (18.39 square meter) facing Bhagoji Keer Marg and as shown and demarcated in blue colour on the Plan, being Annexure “1” hereto in lieu of and instead of Permanent alternate Accommodation, being Shop/NR-Rehab admeasuring approx., 298.48 sq.ft. carpet area and as shown and demarcated in green colour on the plan being Annexure “1”

hereto. In view of the above, the Plaintiff suit shall now be confined to the prayer for compensation to deficit carpet area.

4. Plaintiff undertakes to this Hon'ble Court to execute an undertaking relinquishing all his right, title and interest in the earlier Permanent Alternate Accommodation being Shop/NR-Rehab admeasuring approx.. 298.48 sq.ft. carpet which was to be allotted to Plaintiff in favour of defendant Nos. 1 to 8 without any demur and additional cost and to have the undertaking filed before this Court on or before 12th August 2019 and to provide a copy thereof to the Defendant Nos. 1 to 8. Plaintiff further undertakes to execute such writings, deeds, documents, affidavits, undertakings on the request of Defendant Nos. 1 to 8 to be submitted with the Authorities in this regard. Defendant Nos. 1 to 8 are at liberty to deal with Shop/NR-Rehab admeasuring approximately 298.48 sq.ft., in such manner as they deem fit and proper.

5. Defendants No. 1 is ready to pay pending rent from 11th July, 2014 to 12th January, 2017 i.e., till the issuance of occupation certificate by the authority, which will be in full and final settlement. Details of the same mentioned herein below.

Sr. No.	Rent @ Rs.	From	To	Brokerage charges	Total Rs.
1	46000/-	11/07/14	11/07/15	46000/-	598000/-
2	50600/-	11/07/15	10/07/16	50600/-	657800/-
3	55600/-	11/07/16	12/01/17	55600/-	389200/-
				Total	16,45,000/-

The said amount of rent being Rs.16,45,000/- will be paid in three months as follows:-

- (a) On or before 30th September, Rs. 5,48,333/-
- (b) On or before 31st October, Rs. 5,48,333/-
- (c) On or before 30th November Rs. 5,48,334/-

The said amount is disputed by Plaintiff.

6. Claim of plaintiff for disputed amounts of rent and deficit area of Permanent Alternate Accommodation will be decided at the time of final hearing of the Suit.

Dated this 7th day of August, 2019 at Mumbai.”

2. Defendant No.1 as well as the plaintiff are present in Court and they have stated that they are agreeable to these consent minutes of order, they have understood the contents therein and have signed the same on their own free volition. The said consent minutes of order dated 30th July, 2019 along with its annexures are taken on record and marked “X” for identification. The above Notice of Motion is disposed of in terms of the aforesaid consent minutes of order. No order as to costs.

(B.P. COLABAWALLA, J.)