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IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

NOTICE OF MOTION (L) NO. 795 OF 2019

IN

SUIT NO. 3340 OF 2003

Pavlova Cooperative Housing Society Ltd ...Applicant

In the matter between

Pavlova Cooperative Housing Society Ltd ...Plaintiffs

Versus

The State of Maharashtra & Anr ...Defendants

WITH

CHAMBER SUMMONS (L) NO. 432 OF 2019

IN

SUIT NO. 3340 OF 2003

Pavlova Cooperative Housing Society Ltd ...Applicant

In the matter between

Pavlova Cooperative Housing Society Ltd ...Plaintiffs

Versus

The State of Maharashtra & Anr ...Defendants

Mr JP Sen, Senior Advocate, with Mr Rahul Soman, Mr JS Solomon, Ms Soniya Putta, Ms Chinmayee Das and Ms Vaishali Chaturvedi, i/b M/s Solomon & Co, for the Plaintiff.
Mr Kunal Bhanage, AGP, for Defendants Nos. 1 and 2.

CORAM: G.S. PATEL, J

DATED: 27th March 2019

PC:-

1. For the reasons given in the order made today in Chamber Summons (L) No. 423 of 2019 and Notice of Motion (L) No. 781 of 2019 in Suit No. 3314 of 2003, the present Chamber Summons No. (L) 432 of 2019 is made absolute with leave to amend in terms of the schedule annexed to that Chamber Summons.

2. For the reasons set out in that order in Notice of Motion (L) No. 781 of 2019 in Suit No. 3314 of 2003, there will be an ad-interim order in terms of prayer clauses (a) and (b) of the Plaintiff's present Notice of Motion (L) No. 795 of 2019. To avoid any controversy prayer clauses (a) and (b) of the Notice of Motion are reproduced below.

(a) that pending the hearing and final disposal of this suit, the Defendants and the authorities and officers of the Defendants and their servants and agents be restrained by an order and injunction of this Hon'ble Court from in any manner directly or indirectly acting contrary to the terms set out in the Lease dated 15th April 1959 (Exhibit "B" to the Plaint) and from demanding or recovering from the Plaintiffs lease rent in excess of annual rent of Rs.8/- and from enforcing or taking any steps or actions for recovery from the Plaintiffs of any amount or property and/or acting upon, giving effect to or operating Government Resolution dated 12th December 2012 (Exhibit "T" to the Plaint) (as modified by the Government Resolution dated 5th May 2018 (Exhibit "W" to the Plaint) and Order No.CSLR/RB/1/T/Malabar Hill/G Mo.917 L.R./ 2019/2457 dated 11th February 2019 of Defendant No.2;

(b) that pending the hearing and final disposal of this suit, the Defendants and the authorities and officers of the

Defendants and their servants and agents be restrained by an order and injunction of this Hon'ble Court from in any manner directly or indirectly dispossessing the Plaintiffs from Plot No.10 (described in Exhibit "C" to the Plaint) and/or disturbing or interfering with or obstructing the Plaintiffs' quiet and peaceful possession and enjoyment of Plot No.10 (described in Exhibit "C" to the Plaint) and the building thereon on the terms set out in the Lease dated 15th April, 1959 (Exhibit "B" to the Plaint);

3. There will be an ad-interim order in these terms operative till 26th April 2019.
4. Mr Sen states on instructions that the Plaintiffs have filed an appeal to the Maharashtra Revenue Tribunal on 28th February 2019, which has, apparently, granted a stay on 8th March 2019. This is noted. However I will also grant the injunctions so that there is consistency and no possibility of a confusion. The Maharashtra Revenue Tribunal is requested not to proceed further with that Appeal.
5. List the Notice of Motion for further ad-interim reliefs on 16th April 2019 at 3.00 pm.
6. The Chamber Summons is disposed of in these terms.

(G. S. PATEL, J)