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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
O.O.C.J.**

**NOTICE OF MOTION NO. 1585 OF 2014
IN
SUIT NO. 920 OF 2014**

Janak Vinod Mehta & Ors. ...Applicants/Plaintiffs
VS
M/s R.D.Gandhi & Ors. ...Defendants

.....
Ms Pratima Soundalkar I/b Solicis Lex for the Applicants/ Plaintiffs
None for the Defendants.

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**CORAM : B. P. COLABAWALLA, J.
JUNE 26, 2019.**

P.C. :

This Notice of Motion has been filed seeking a temporary injunction restraining the defendants from in any manner using and/or exploiting and/or acting upon the Deed of Conveyance dated 4th March, 2013 insofar as the same concerns the suit property and restrain defendant No.2 from using the FSI and/or TDR and/or any other benefits of FSI that arise from and accrue in respect of the suit property including the purpose of redevelopment. The suit property is more particularly described in paragraph 3(a) of the plaint. The suit property was a part of the larger property admeasuring 9278 square yards (7757.59 sq.mtrs.).

2 When this Notice of Motion had come up at the ad-interim stage, this Court on 29th April, 2014 had recorded a statement on behalf of defendant No.2 that he is not proceeding to sell, utilize and/or create any third party rights in respect of the FSI available with reference to the suit plot bearing CTS No. 1108-B admeasuring 6461 square meters. Para 2 of the order dated 29/4/2014 reads thus-

“Since the learned Senior Advocate appearing for Defendant No.2 has informed the Court that the Defendant No.2 is at present not proceeding to sell, utilize and/or create any third party rights in respect of the FSI available in respect of the suit plot bearing CTS No. 1108-B admeasuring 6461.8 sq. mtrs, no ad-interim relief is granted, save and except that the statement made on instructions, by the learned Senior Advocate for Defendant No.2 is accepted.”

This order was thereafter corrected on 5/5/2014 pursuant to speaking to minutes and paragraph 2 of the corrected order reads thus -

“Since the learned Senior Advocate appearing for Defendant No.2 has informed the Court that the Defendant No.2 is at present not proceeding to sell, utilize and/or create any third party rights in respect of the FSI available in respect of 508 sq. mtrs. out of the suit plot bearing CTS No. 1108-B admeasuring 6461.8 sq. mtrs, no ad-interim relief is granted, save and except that the statement made on instructions, by the learned Senior Advocate for Defendant No.2 is accepted.”

3 Today when this Notice of Motion is called out, none appear on behalf of the defendants. Learned advocate appearing on behalf of the applicants/plaintiffs had stated before me that the applicants/plaintiffs would be satisfied if the injunction is granted against defendant No.2 in terms of the statement made at the ad-interim stage.

4 Considering these facts, it is ordered that defendant No.2 shall not sell, utilize and/or create any third party rights in respect of the FSI/ TDR available with reference to 508 square meters out of the suit plot bearing CTS No. 1108-B admeasuring 6461.8 square meters till the hearing and final disposal of the suit.

5 The Notice of Motion is disposed of in the aforesaid terms. No order as to costs.

(B.P.COLABAWALLA, J.)