

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

Amk

COMMERCIAL APPEAL (L) NO. 227 OF 2019
IN
COMMERCIAL CHAMBER SUMMONS NO. 1320 OF 2018
IN
COMMERCIAL SUIT NO. 1280 OF 2018

Haresh Tahikandas Chhetija & Ors. .. Appellants

Vs.

Vimla Kapoor & Ors. .. Respondents

Mr. Vishal Thaker a/w. Ms. Anjali Trivedi i/b V. Thakers for the Appellants.

Ms. Hiral Vora i/b Maniar Srivastava Associate for Respondent Nos.2 & 3.

Ms. Ankita Singhania a/w. Mr. Akas Menon for Respondent No.1.

CORAM : PRADEEP NANDRAJOG, C.J. &
N. M. JAMDAR, J.

DATE : 11th JULY, 2019.

P. C. :

1. With consent of the parties the Appeal is heard at the admission stage for the final disposal today itself.
2. Challenge in the Appeal is to an order dated 18.03.2019 allowing Commercial Chamber Summons No. 1320 of 2018 impleading the Appellant Nos.4, 5 and 6 and permitting the plaint to be amended as proposed. The amendment is preceded by the fact that the 1st Respondent filed a suit seeking decree of specific performance against two defendants; Mrs. Ekta Supreme Corporation and Supreme

Universal/Supreme Mega Construction LLP. She alleged that she was a member of Corner View Co-operative Housing Society Ltd. and was in possession of a flat in a building constructed by the society on the ground floor. She was using the flat for commercial purpose. Notwithstanding the society having an agreement with the developer, since she had opted out of the agreement between the society and the developer, she had an independent agreement with the developer. She sued for specific performance of the agreement. In the written statement filed the developer informed that they had already transferred possession of the flat on the ground floor to the Appellants. This necessitated the amendment to implead the Appellants as also Corner View Co-operative Housing Society Ltd. as defendants.

3. In our opinion, the Appellants would be a necessary party in the suit filed by Vimla Kewal Kapoor for the reason she seeks specific performance of an agreement with the developer and as a result of specific performance she seeks to be put in possession of the property forming the subject matter of the suit. The amendments are consequential to the developer informing facts not in her knowledge and before issues were settled.

4. The appeal is dismissed.

[N. M. JAMDAR, J.]

[CHIEF JUSTICE]