

Sharayu Khot.

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

LEAVE PETITION NO. 109 OF 2019

IN

COMMERCIAL SUIT (L) NO. 655 OF 2019

L & T Asian Realty Project LLP & Anr. ...Petitioners

Versus

M/s. K.S. Chamankar Enterprises & Anr. ...Respondents

Mr. Yashesh Kamdar, a/w Ms. Aditi Prabhu i/by Desai Desai
Carrimjee & Mulla, for the Petitioners.

CORAM : R.I. CHAGLA J.

DATE : 11 June 2019

ORDER :

1. The Petitioners are seeking leave of this Court under Order II Rule 2 of the Code of Civil Procedure, 1908 to be granted to the Petitioners to institute separate proceedings against the Respondents or any other party for such additional reliefs arisen out of the same cause of action as pleaded in Commercial Suit (L) No. 655 of 2019, as and when the same are ascertained by the Petitioners.

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June 11, 2019

2. The learned Counsel for the Petitioners refers to paragraph 27 of the Plaint wherein the Plaintiffs have reserved their rights to seek leave of this Court under Order II Rule 2 of the Code of Civil Procedure, 1908 to raise any further claim that may arise after exercise is completed either against the Defendants herein or any other party including but not limited to Slum Rehabilitation Authority or the officers of the State, through the Housing Department with whom Defendant No. 1 has contracted for the construction of the Government Component of the Project. The learned Counsel for the Petitioners has stated that various expenses have been incurred by the Plaintiff No. 1 towards execution of the project and has claimed the same as and by way of damages from the Defendant No. 1. He has stated that the Developer i.e. the Defendant No. 1 has been terminated and the challenge of Defendant No. 1's termination has been rejected. There is accordingly, a new Developer to be appointed. Upon appointment of the new Developer, the financial wing of SRA would verify and examine the previous expenditure incurred with the help of the experts of

this Court which will be borne by the new developer under the order of SRA dated 19th June 2017. Accordingly, the Petitioners who reserve their rights to seek leave under Order II Rule 2 of the Code of Civil Procedure, 1908 would have to take necessary action against the concerned new developer and claimed the expenditure incurred as stated in paragraph 27 of the Plaint.

3. Considering that there has been a change in circumstances after filing of the Suit and after considering the order of SRA dated 19th June 2017 which contemplates appointment of a new developer and examining by the SRA of the previous expenditure incurred with the help of experts as well as the claim of the Plaintiffs in the Suit for expenditure incurred by them, leave of this Court is granted to the Petitioners under Order II Rule 2 of the Code of Civil Procedure, 1908. The Petition is accordingly made absolute in terms of prayer clause (a).

[R.I. CHAGLA J.]