

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

**CHAMBER SUMMONS NO. 1050 OF 2019
IN
COMMERCIAL EXECUTION APPLICATION (L) NO. 1625 OF 2019
WITH
COMMERCIAL EXECUTION APPLICATION (L) NO. 1625 OF 2019**

Vikram B. Trivedi & Anr.	...	Applicants/ Orig. Plaintiffs
Versus		
M/s. Kalpavruksha Developers & Ors.	...	Respondents/ Orig. Defendants
And		
Rajiv & Suhasini Jalan & Ors.	...	Additional Respondents

Mr. Chetan Kapadia, Mr. Rahul a/w Mr. Ronak i/b Mulla & Mulla And
Craigie Blunt & Caroe for the Applicants.
Mr. S. Nagvadaria for Defendant Nos.6 and 7.
Mr. Rubin Vakil i/b Tejas Shah for Defendant Nos.9 and 10.

CORAM : R.I. CHAGLA, J.

DATED : 24th SEPTEMBER, 2019.

P.C. :

1 This Chamber Summons has been taken out in Execution Application No.1625 of 2019 and seeks an order in terms of the consent terms dated 24.07.2019 enabling the signatories to the consent terms to complete the incomplete building Kalpavruksha Residency and to do all necessary acts and take all steps, action including requisite permissions/approvals in respect thereof.

2 It is stated in paragraph 5 of the affidavit in support of the Chamber Summons that there are no obligations cast upon Defendant Nos.2 to 5 under the present consent terms and the same are executed only with an intention to protect the interest of all affected parties i.e. the flat purchasers. This is to ensure that the building Kalpavruksha Residency is completed and occupation certificate obtained and all necessary permissions from the Municipal Corporation of Greater Mumbai and Government are obtained. It is stated that the nature of relief will not prejudice the Defendant Nos.1 to 5 who are not the signatories to the consent terms. This has also been stated in paragraph 17 and 20 of the affidavit in support of the consent terms.

3 The Original Defendant No.2 had undertaken the responsibility to complete the building Kalpavruksha Residency, had died on 22.05.2019. The flat owners who are the signatories of the said consent terms have registered agreements in their favour and/or are having interest in the flats in the suit project. They have evinced willingness to make an initial refundable funding of Rs.35,00,000/- which is at the first instance and strictly on a returnable basis and aggregating to Rs.3,50,00,000/- to facilitate completion of the balance work in the suit project and

obtain occupation certificate and the building completion certificate thereof.

4 The consent terms dated 24.07.2019 are taken on record and marked 'X' for identification.

5 The learned Counsel for the Defendant Nos.1 to 5 have no objection to the consent terms being taken on record by this Court and they only seek a clarification which is in terms of paragraphs 5, 17 and 20 that there are no obligations cast upon Defendant Nos.2 to 5 under the consent terms.

6 Considering that there is no real opposition to the Chamber Summons other than the clarification sought for by the Defendant Nos.1 to 5, the consent terms shall form part of the order of this Court and the party shall act upon the consent terms. It is clarified that no obligations under the consent terms are cast upon Defendant Nos.1 to 5.

7 The Chamber Summons is accordingly made absolute in terms of prayer clause (a).

8 The Execution Application shall be placed on 18.10.2019.

(R.I. CHAGLA, J.)