

Dixit

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

INTERIM APPLICATION NO.1 OF 2019

IN

NOTICE OF MOTION NO.595 OF 2017

IN

SUTT NO.229 OF 2017

Veena H. Hinduja and Anr.Applicants

In the matter between

Hiranandani Construction Pvt. Ltd., MumbaiPlaintiff

V/s.

Ramesh H. Gurbaxani and Ors.Defendants

And

Court Receiver, High Court, BombayRespondent

Mr. Karl Tamboly, with Mr. Nilesh Gala, i/by Law Square, for the Applicants–
Original Defendant Nos.3 and 4.

Mr. Zal Andhyarujina, with Ms. Deepa Pahuja, i/by J. Law Associates, for the
Plaintiff.

Ms. Sushma Singh, i/by Ms. Priyanka Raul, for Defendant No.5.

Ms. Kanchan Rane, 1st Assistant to Court Receiver, is present.

CORAM : A.K. MENON, J.

DATED : 8TH NOVEMBER, 2019.

P.C. :

Mentioned. Not on Board. Upon mentioning, taken on Board.

1. This application on behalf of defendant nos.3 and 4 seeks to protect their right of possession in respect of the premises they are entitled to, pursuant to the order passed by the Supreme Court in Special Leave Petition No.22665-22666/2019, whereby the Supreme Court has directed that agreements between the parties before the Supreme Court should be executed within four weeks from the date of the order i.e. 20th September 2019, subject to the applicants depositing amounts towards purchase price of the excess area agreed to be purchased from the developer.

2. It is common ground that the period of four weeks has expired. It is also not in dispute that the amount for the excess area has been paid over by the two applicants to the developer. The society also confirms this aspect. However, the dispute now between the parties is pertaining to liability, if any, to pay amount of maintenance from the date of issuance of the occupation certificate till grant of possession, upon execution of the agreements contemplated in the orders of the Supreme Court.

3. Today, Mr. Tamboly for the applicants submits that, without prejudice to their rights and contentions, both the applicants are willing to deposit with the society sums of Rs.5,25,693/- each on or before 13th November 2019.

4. In view thereof, till 13th November 2019, the Court Receiver, who is present in the court, is directed not to take possession. If the amount, as

aforesaid, is not deposited on 13th November 2019 by 5:00 p.m. with the society, the Court Receiver shall proceed to take possession of the property on 14th November 2019, without further notice to the applicants and without further orders of this court.

5. In the event the deposit is made, the defendant no.5-society shall invest the aforesaid amount in a fixed deposit in any nationalized bank to the credit of the two applicants till further orders of the court. The agreements contemplated in the order of 20th September 2019 shall be executed. Both the parties agreed today that the provisions in the agreements to be executed, apropos the liability to pay the maintenance from the date of the occupation certificate, shall now be deleted from the draft, without prejudice to the rights and contentions of the parties as to the liability.

6. Interim Application is disposed in the above terms.

(A.K. MENON, J.)