

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

**SUIT NO.429 OF 2017
WITH
NOTICE OF MOTION NO.2464 OF 2018
WITH
NOTICE OF MOTION (L) NO.1004 OF 2019
IN
SUIT NO.429 OF 2017**

Smita Akshay Vakil and Anr.Plaintiffs

Vs.

M/s. Toughcons City Homes Pvt. Ltd. and Anr.Defendants

Ms. Smita Sawant i/b. Dave and Company for plaintiffs.

Mr. Anil R. Mishra for defendant no.1.

Ms. Amian Warsi i/b. Shah and Furia Associates for defendant no.2.

Mr. Bandodkar, Second Assistant to Court Receiver and Ms. Ujwala Sankpal, Section Officer, representatives of Court Receiver present.

CORAM : K.R.SHRIRAM, J.

DATE : 18th APRIL 2019

P.C.:

NOTICE OF MOTION (L) NO.1004 OF 2019

1 Mr. Mishra seeks a direction to the Court Receiver to allow defendant no.1 to take away the items mentioned in paragraph 5 (page 4 and 5 of the Court Receiver's Report dated 7th March 2018). Those are eight items mentioned therein. Ms. Sawant, counsel for plaintiff and Ms. Warsi, counsel for defendant no.2 have no objection.

2 Court Receiver to permit defendant no.1 to remove these items against proper receipt to be issued by defendant no.1 in the presence of the representatives of plaintiff and defendant no.2.

3 Notice of motion accordingly stands disposed.

NOTICE OF MOTION NO.2464 OF 2018

4 Ms. Warsi, counsel for defendant no.2 submits that the Court Receiver be directed to hand over the suit plot to defendant no.2 since defendant no.2 is the society and there are certain documents deposited by defendant no.1 with the Court Receiver which also be handed over to the society. The counsel for plaintiff has no objection.

5 Mr. Mishra states that defendant no.1 had paid stamp duty and registration charges etc. on the documents and also some consideration. That is not a subject matter of this suit and if defendant no.1 has any claim in that regard, it is for defendant no.1 to take such steps as advised. This Court is not making any observation in that regard.

6 Since plaintiff also has no objection and defendant no.2 is the society, whose plot is being developed, the Court Receiver is directed to hand over possession to defendant no.2 alongwith all the documents against proper receipt.

7 Notice of motion accordingly stands disposed.

8 Ms. Sawant, counsel for plaintiff states that she will take instructions as to whether the suit should be continued.

9 Stand over to 26th April 2019 for directions.

(K.R. SHRIRAM, J.)