

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

**NOTICE OF MOTION NO.37 OF 2017
WITH
JUDGES ORDER NO.224 OF 2010
WITH
NOTICE OF MOTION NO.1349 OF 2014
WITH
NOTICE OF MOTION NO.380 OF 2016
WITH
NOTICE OF MOTION NO.1452 OF 2016
IN
SUIT NO.2547 OF 2010**

Prathamesh Galaxy Members Welfare
Association and Ors.

....Plaintiffs

Vs.

M/s. Sailee Developers and Ors.

....Defendants

Mr. Kevic Setalvad, senior advocate a/w. Mr. Arsh Misra i/b. M.V. Kini and Company for plaintiffs.

Mr. Sachin Arun Mhatre for defendant/respondent nos.1 to 4.

Mr. Ruchir L. Tolat i/b. M/s. L.C. Tolat and Company for respondent/defendant nos.6,9 and 14.

Mr. Chirag Mody a/w. Ms. Trisha Sarkar and Ms. Saloni Shah i/b. DSK Legal for defendant no.8.

Mr. Nishant Mohite i/b. Mr. Pradeep J. Thorat for defendant no.10.

Ms. Shachi Udeshi i/b. Wadia Ghandy and Company for defendant no.16.

Mr. Sameer Mhatre i/b. Mr. Jagdish G. Agardwad for defendant no.17.

Ms. M.M. Raut, Section Officer from office of Court Receiver present.

CORAM : K.R.SHRIRAM, J.

DATE : 22nd MARCH 2019

P.C.:

1 Respondent no.1 admittedly has not complied with the order passed by this Court on 22nd February 2019. The partner of respondent no.1, against whom the order has been passed, is also not present in Court. Mr. Mhatre, counsel for respondent nos.1 to 4 states that he needs some

more time.

2 I have to note that Mr. Mhatre in fairness stated that plaintiffs are not to be blamed at all for the situation they are in and for their sufferance his heart goes to them. Mr. Mhatre also states that he will take instructions as to how best the matter can be resolved.

3 The time to deposit is extended upto and including 26th March 2019. This is without prejudice to applicants' rights and contentions. If by 26th March 2019 the amount is not deposited, the interest payable will be 18% p.a. against 9% p.a. which has been granted on 22nd February 2019.

4 Stand over to 29th March 2019 for directions.

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5 Mr. Tolat, who is applicant in this notice of motion, seeks leave to withdraw the notice of motion.

6 Notice of motion dismissed as withdrawn.

NOTICE OF MOTION NO.380 OF 2016

7 This notice of motion is taken out by defendant nos.6 and 9 to either delete issue no.5 as framed on 28th October 2015 or to recast the issue no.5 as per prayer clause – (b) of the notice of motion.

8 I have heard the counsel and also considered the affidavit in support, reply and in my view, issue no.5 as framed on 28th October 2015 requires no modification or alteration.

9 Notice of motion dismissed.

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10 On 28th October 2015 after the issues were settled, further directions were passed for filing respective affidavit of documents, exchanging the same, completing discovery and inspection and also filing list of witnesses, evidence etc. Though 3 ½ years have passed, it is not clear whether any of the parties have complied with the directions.

11 Mr. Setalvad states that there has been change of plaintiffs' advocate about three years ago. Mr. Setalvad states that before the next date, plaintiffs will put their house in order and inform the Court on the next date what is the status. If for that purpose plaintiffs or defendants wish to take inspection of the records and proceedings, the registry to permit the same.

(K.R. SHRIRAM, J.)