

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

**COMMERCIAL NOTICE OF MOTION (L) NO.3033 OF 2018
IN
COMMERCIAL SUIT (L) NO.1670 OF 2018**

Shree Hans Realtors LLP

....Applicant/Plaintiff

Vs.

Top in Town Co-operative Housing
Society Limited and Ors.

....Defendants

Mr. Amogh A. Singh a/w. Mr. Abhishek Mishra, Mr. Bhavin Rajendra Bhatia and Ms. Shweta Gupta for applicant/plaintiff.

Mr. Anoshak Daver a/w. Mr. Prayag Bharat Joshi for defendant no.1.

Mr. Manish Upadhye, AGP for defendant nos.2 and 3.

CORAM : K.R.SHRIRAM, J.

DATE : 8th JANUARY 2019

P.C.:

1 Parties tendered consent minutes of order dated 8th January 2019, which is taken on record and marked "X" for identification. The consent minutes of order reads as under :

By the consent of parties, the following order is passed:-

1. The Court Receiver, High Court, Bombay to stand appointed forthwith as Court Receiver in respect of the suit premises being Flat No. B/12 situated at Top-in-Town CHSL, Kedarmal Road, Malad (E), Mumbai – 400 097 with all powers as contemplated under O. 40 R. 1 of the Code of Civil Procedure, 1908, including power to take possession , execute and sign and register all deeds/documents in respect of Flat No. B/12 situated at Top-in-Town CHSL, Kedarmal Road, Malad (E), Mumbai – 400 097 being the Permanent Alternate Agreement to be executed on behalf of the deceased and as contemplated under the Development Agreement and for all ancillary, incidental and consequential purposes. The proposed new flat to be allotted shall be on identical terms as agreed by all the members of Defendant No.1 society.

2. The Court receiver to forthwith prepare an inventory of all movables lying in the premises ,take custody of the same & present his report to court within two weeks from today.

3. Court Receiver shall handover quiet, vacant and peaceful possession of the suit premises being Flat No. B/12 situated at Top-in-Town CHSL, Kedarmal Road, Malad (E), Mumbai – 400 097 to the Plaintiffs, in order to enable the Plaintiffs to demolish the Top-in-Town building including Suit Flat and proceed with the development of the property as per the Development Agreement dated 16/12/2015 executed between the Plaintiffs and the Defendant No.1 (“Development Agreement”).

4. Plaintiffs and Defendant No.1 Society agree and confirm that in lieu of the suit flat, Court receiver shall be allotted a new Flat bearing No. 1003 admeasuring area of 405 sq. ft carpet area on 10th floor in proposed newly constructed building after redevelopment and after obtaining the Occupation Certificate. (“**New Flat**”).

5. The Plaintiffs, Defendant No.1 and the Court Receiver or his Appointed representative shall attend the office of the concerned Sub-Registrar of Assurance to execute and register the Permanent Alternate Agreement. The Stamp Duty and Registration charges in respect of the Permanent Alternate Agreement to be borne by the Plaintiffs.

6. The Plaintiff shall hand over all benefits accruing to the deceased as per the terms of the Development Agreement and payable to the deceased as a member of the Defendant No.1 Society to Court receiver and Court receiver shall invest the same in fixed deposits until further order of the Hon’ble Court.

7. Plaintiffs to remit the necessary charges for Appointment of Court Receiver.

8. Upon completion of the Redevelopment project, Plaintiff and Defendant no. 1 shall hand over the vacant and peaceful possession of New Flat to the Court Receiver, who shall forthwith hand over the possession to the Administrator General upon compliance of the procedures as contemplated in law and consequently the Court receiver shall stand Discharged.

9. The present Notice of Motion as well as suit is disposed in the above terms, with no order as to costs.

10. All concerned including Court receiver to act on an authenticated copy of this order.

11. Refund of court fees as per rules.

12. Liberty to apply.

2 For convenience, a scanned copy of the consent minutes of order is also reproduced herein below :

Coram : Shri K. R. Shrinani J
Date : 08/01/2019

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
IN
ITS COMMERCIAL DIVISION
NOTICE OF MOTION NO. (L)3033 of 2018
IN
COMMERCIAL DIVISION SUIT (L)NO. 1670 OF 2018

Shree Hans Realtors LLPPlaintiff
V/S
Top in Town Co-operative Housing
Society Ltd. And 2 OrsDefendants

Appearances:
Mr. Anagha A. Singh s/w Anandhik Mishra s/w Bhavin Rajendra Datta for Plaintiff
Mr. Anandhik Datta s/w Pragy; Bharti Joshi for Defendant No. 1
Mr. Manish Upadhyay, AGP for Defendant Nos. 2 & 3.

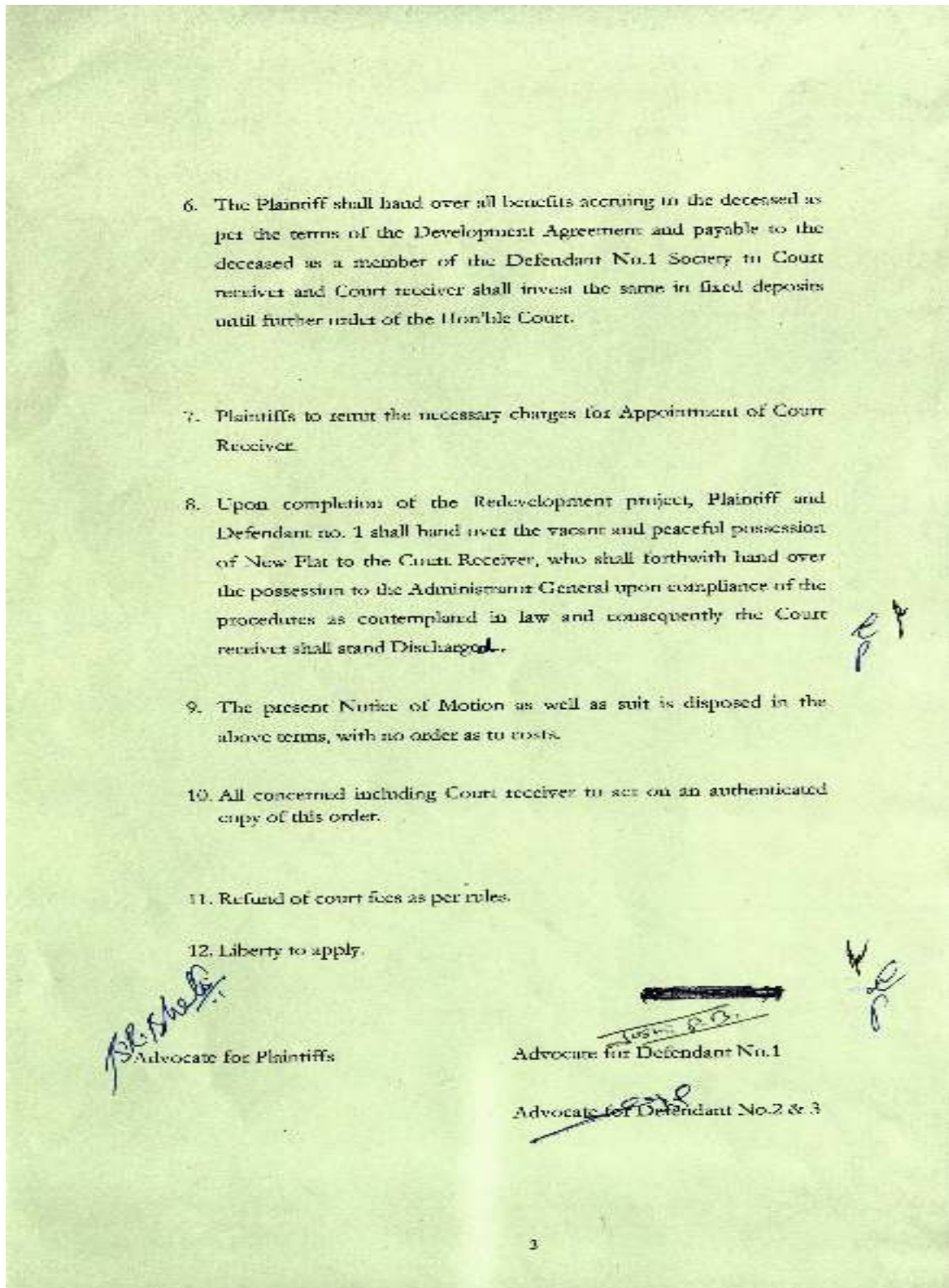
CONSENT MINUTES OF ORDER
Coram : K.R.Shrinani J
Date : 08/01/2019

By the consent of parties, the following order is passed:-

1. The Court Receiver, High Court, Bombay to stand appointed forthwith as Court Receiver in respect of the suit premises being Plot No. B/12 situated at Top-in-Town CHSL, Kedarnal Road, Malad (E), Mumbai - 400 097 with all powers as contemplated under O. 40 R. 1 of the Code of Civil Procedure, 1908, including power to take possession, execute and sign and register all deeds/documents in respect of Plot No. B/12 situated at Top-in-Town CHSL, Kedarnal Road, Malad (E), Mumbai - 400 097 being

the Permanent Alternate Agreement to be executed on behalf of the deceased and as contemplated under the Development Agreement and for all ancillary, incidental and consequential purposes. The proposed new flat to be allotted shall be on identical terms as agreed by all the members of Defendant No.1 society.

2. The Court Receiver to forthwith prepare an inventory of all movables lying in the premises, take custody of the same & present his report to court within ~~one~~² weeks from today. e/s
3. Court Receiver shall handover quiet, vacant and peaceful possession of the suit premises being Flat No. B/12 situated at Top-in-Town CHSL, Kedarnal Road, Malad (E), Mumbai - 400 097 to the Plaintiffs, in order to enable the Plaintiffs to demolish the Top-in-Town building including Suit Flat and proceed with the development of the property as per the Development Agreement dated 16/12/2015 executed between the Plaintiffs and the Defendant No.1 ("Development Agreement").
4. Plaintiffs and Defendant No.1 Society agree and confirm that in lieu of the suit flat, Court receiver shall be allotted a new flat bearing No. e/s
1003 admeasuring area of 405 sq. ft carpet area on 10th floor in proposed newly constructed building after redevelopment and after obtaining the Occupation Certificate. ("New Flat"). f
5. The Plaintiffs, Defendant No.1 and the Court Receiver or his Appointed representative shall attend the office of the concerned Sub-Registrar of Assurance to execute and register the Permanent Alternate Agreement. The Stamp Duty and Registration charges in respect of the Permanent Alternate Agreement to be borne by the Plaintiffs.



3 Order in terms of the consent minutes of order. The undertaking of plaintiff to strictly comply with the order is accepted.

4 Notice of motion as well as suit disposed in terms of the consent minutes of order with no order as to costs. Refund, if any of court fees in accordance with rules. Liberty to Court Receiver to apply for directions.

5 All to act on authenticated copy of this order.

(K.R. SHRIRAM, J.)