

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

INTERIM APPLICATION NO. 1 OF 2020

IN

MISCELLANEOUS PETITION NO.4 OF 2020

WITH

MISCELLANEOUS PETITION NO.4 OF 2020

Anjali
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Taranjit Anand

... Petitioner/Applicant

Satinderpal Singh Anand

... Deceased

Ms. Monika Parikh, Advocate for Applicant/Petitioner.

Mr. Rajesh A. Revankar i/b A.G. Revankar & Co., Advocate for Starlet CHS.

Mr. Amit Pradhan i/b Pradhan & Co., for proposed purchaser/Developer.

CORAM: B.P. COLABAWALLA J.

DATE : SEPTEMBER 28, 2020

(Through Video Conferencing)

P.C.:

1. This petition is filed under Section 8 of the Hindu Minority & Guardianship Act, 1956 read with Section 10 of Guardians and Wards Act, 1890. The reliefs sought in the present petition are for sanction of this Court and permit the sale of the share right, title and interest of Miss. Sania Anand and Miss Shaina Anand being the minor daughters of the petitioner in the following premises:-

“i. Duplex flat bearing No.101 admeasuring 3000 square feet of super build up (equivalent to 1710 square feet of built-up area) on the first floor of the

new Building known as “Starlet” presently under construction on the land bearing CTS Nos. C/1067 and C/1068 of C-Ward, Bandra, Situate, lying and being at 270-B, Carter Road, Bandra (W), Mumbai-400 050 together with 2 (two) exclusive reserved car-parking spaces in the car-parking deck area appurtenant to the said flat.

ii. Free Sale Premises being Duplex flat bearing no. 201 admeasuring 3000 square feet of super built up 9equivalent to 1710 square feet of built-up area) on the Second floor of the new Building known as ‘Starlet’ presently under construction on the land bearing CTS Nos. C/1067 and C/1068 of C-ward, Bandra, situate, lying and being at 270-B, Carter Road , Bandra (W), Mumbai-400 050 together with 2 (two) exclusive reserved car-parking spaces in the car-parking deck area appurtenant to the said flat and 9(nine) exclusive reserved car parking spaces in the basement, 16(sixteen) exclusive reserved car parking spaces on the podium NS 3(three) open, exclusive reserved car-parking spaces on the ground floor of the new Building”

2. Additionally, sanction/permission is sought for cancellation and surrender of the right, title and interest of Sania Anand and Shaina Anand in the development rights acquired by M/s Anand Constructions with respect to the property of Starlet Cooperative Housing Society Limited consisting of the building known as ‘Starlet’ and presently under construction.

3. The petitioner is the widow of late Mr. Satinderpal Singh Anand (deceased), who expired intestate on 24th October 2016 leaving the petitioner and his two minor daughters as his only heirs. The deceased husband of the petitioner was the partner of M/s Anand Constructions with one Mr. Amarjit Singh Anand (which after the death of the deceased husband, has become a sole proprietary concern of the petitioner and the two minor daughters have a beneficial interest therein). The said

firm was engaged in the business of construction of buildings as well as redevelopment and reconstruction of buildings. One of the projects undertaken by the deceased husband was the redevelopment of the 'Starlet' building. The said redevelopment was fraught with permission and license delays from the competent authorities since the year 2011 added to which the restrictions on the use of TDR under CRZ II regulations and the regulatory delays, created an unanticipated delay and uncertainty surrounding the completion of the development of the incomplete building. This was thereafter complicated by the fact that the husband of the petitioner passed away and the petitioner has no experience in building industry and therefore is not upto facing the challenges of continuing with the construction.

4. The petitioner and the society, therefore, entered into discussions and negotiations to sort out the matter. It was accordingly *inter alia* agreed that the petitioner would be allowed (a) to sell and transfer the free sale premises detailed therein, to a purchaser of her choice and with liberty to keep the entire sale consideration for herself and her daughters with no claim whatsoever to the society; (b) that the petitioner would sell her shares in the building pertaining to old flats A-1, A-3 and A-9 which were now flat 101 alongwith 2 parkings (in the new incomplete building) and; (c) the society would cancel the

Development Agreement and all ancillary documents given to M/s Anand Construction and shall revoke all power of attorneys given and have the liberty to find a new developer as it deem fit.

5. Following the conclusion of all discussions with the society as well as the prospective purchasers, the petitioner in her capacity as widow of the deceased as well as the natural guardian of the two minor daughters Sania and Shaina and also as a sole proprietor of M/s Anand Constructions has entered into, signed and executed several documents as more particularly stated in paragraph-20 of the petition.

6. In the petition it is averred that all this has been done because the petitioner is not in a position to carry on the construction business and complete the redevelopment of Starlet Cooperative Housing Society. It is further mentioned that the aforesaid transactions (mentioned in the petition) would be for the benefit of the minor daughters and all parties to the transactions are aware that it is imperative to obtain consent/permission of this Court to sell and cancel/surrender the minor daughters' (i.e. Sania and Shaina) share/interest in the said properties mentioned in the petition so as to enable the petitioner as a natural guardian of her minor daughters and on behalf of her minor daughters, to give effect to the transactions agreed with the society and the respective purchasers.

7. I have heard the learned advocate on behalf of the petitioner. When the matter had come up on the last occasion, I had asked the learned advocate to ensure that the advocates of the society as well as the new developer are present before the Court. Today when the matter is called out, they are present before the Court and they have also stated that they have no objection if the necessary sanction/permission are granted in favour of the petitioner.

8. Looking to the averments in the petition, I find that the transactions mentioned therein are for the benefit of the minors. In fact, in all the transactions listed in the petition, the aggregated amount to be received by the petitioner and her two minor daughters would be Rs. 47 Crores and which is deposited in escrow accounts with Axis Bank Limited.

9. In these circumstances and taking an over all view of the matter, the above petition is allowed in terms of prayer clauses (a) to (d), which read thus:-

“a) That this Honourable Court may be pleased to sanction and permit the sale of the share, right, title and interest of Sania Anand and Shaina Anand (being the minor daughter of the Petitioner) in;

i. Duplex flat bearing No. 101 admeasuring 3000 square feet of super built up (equivalent to 1710 square feet of built-up area) on the first floor of the new Building known as ‘Starlet’ presently under construction on the land bearing CTS Nos. C/1067 and C/1068 of C-Ward, Bandra, Situate, lying and being at 270-B, Carter Road, Bandra (W), Mumbai-400 050 together

with 2 (two) exclusive reserved car-parking spaces in the car-parking deck area appurtenant to the said flat.

ii. Free Sale Premises being Duplex flat bearing No. 201 admeasuring 3000 square feet of super built up (equivalent to 1710 square feet of built-up area) on the second floor of the new building known as 'Starlet' presently under construction on the land bearing CTS Nos. C/1067 and C/1068 of C-Ward, Bandra, situate, lying and being at 270-B, Carter Road, Bandra (W), Mumbai-400 050 together with 2 (two) exclusive reserved car-parking spaces in the car-parking deck area appurtenant to the said flat and 9 (nine) exclusive reserved car parking spaces in the basement, 16 (sixteen) exclusive reserved car parking spaces on the podium NS 3 (three) open, exclusive reserved car-parking spaces on the ground floor of the new building.

b) That this Honourable Court may be pleased to sanction and permit the cancellation and surrender of the right title and interest of Sania Anand and Shaina Anand in the development rights with respect to the property of Starlet Cooperative Housing Society Limited acquired by M/s Anand Constructions consisting of the building known as Starlet presently under construction and the plot of land bearing CTS Nos. C/1067 and C/1068 of C-Ward, Bandra, situate, lying and being at 270-B, Carter Road, Bandra (W), Mumbai-400 050 on which the building is being constructed.

c) That the petitioner as such the natural guardian may be authorized on behalf of the minor daughters to complete the sale and transfer all the right, title and interest of the minor daughters in the said flats and the cancellation/surrender of development rights and to sign and execute the agreements and other necessary documents of any kind whatsoever in respect of the sale of said flats in favour of the purchasers and cancellation and surrender of the development rights in favour of the Starlet Cooperative Housing Society Limited and to receive the amount of consideration money from the said sale and the said cancellation/surrender and to do all other acts, deeds, matters and things necessary and/or expedient for and/or in connection with completing the sale/cancellation/surrender of the right, title and interest of the minor daughters in the said properties and rights;

d) That the Petitioner as such the natural guardian may further be authorized to invest (as may be professionally advised) the share of her minor daughter (i.e. amounts such part of the proceeds from the sale of the said flats and the cancellation / surrender of development rights, as may consists of the share of the minor daughters in such proceeds of the sale of their share in the said flats and their share in the cancellation amounts of development rights of her minor daughters' shares."

10. The above petition is disposed of in above terms.

11. Considering that the Miscellaneous Petition itself is disposed of, nothing survives in the Interim Application and the same is disposed of accordingly.

12. This order shall be digitally signed by the Private Secretary/Personal Assistant of this Court. All concerned shall act on production by fax or e-mail of a digitally signed copy of this order.

(B. P. COLABAWALLA, J.)