

IN THE HIGH COURT OF JUDICATURE AT BOMBAY**CIVIL APPELLATE JURISDICTION****APPEAL FROM ORDER NO. 286 OF 2021****WITH****I.A. NO. 2576 OF 2021****IN****APPEAL FROM ORDER NO. 286 OF 2021**

Nikitesh Naresh Sharma & Anr.

....Appellants/
Applicants.
(Orig. Plaintiffs)

Vs.

M/s. Omkar Realtors Developers
Private Limited & Ors.

.....Respondents.

Mr. A.M. Saraogi for the Appellants/Applicants (Original Plaintiffs).
None for the Respondents.

CORAM : A. S. GADKARI, J.

DATE : 29th SEPTEMBER, 2021.

PC.:-

By impugned Order dated 3rd August, 2021 passed in Special Civil Suit Stamp No.3410 of 2021, the Trial Court has returned the plaint to the Appellants/Applicants (Orig. Plaintiffs) to file it before the appropriate forum.

2 Mr. Saraogi, learned counsel for the Appellants/Applicants (Orig. Plaintiffs), on instructions, submitted that, instead of presenting the said plaint before the appropriate Court, the Appellants intend to withdraw

it with liberty to file a Suit for the same cause of action and for seeking substantive relief of specific performance of Agreement dated 20th December, 2017/Letter of allotment dated 20th December, 2017 in respect of the Suit premises specifically mentioned in prayer clause (A) of the Special Civil Suit Stamp No.3410 of 2021, before the Court of competent jurisdiction. He therefore, seeks leave to withdraw the said Special Civil Suit Stamp No.3410 of 2021.

Leave and liberty granted.

The said Special Civil Suit Stamp No.3410 of 2021 is permitted to be withdrawn by the Appellants/Applicants (Orig. Plaintiffs) and is accordingly disposed off by reserving the aforesaid liberty to the Appellants/Applicants (Orig. Plaintiffs).

3 In view thereof, nothing further survives in the present Appeal and is accordingly disposed off.

In view of disposal of the Appeal from Order itself, Interim Application No.2576 of 2021 does not survive and is also disposed off.

(A.S. GADKARI, J.)

SANJIV
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MASHALKAR

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