

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

INTERIM APPLICATION NO.2341 OF 2020

ALONG WITH

INTERIM APPLICATION NO.2347 OF 2020

ALONG WITH

INTERIM APPLICATION NO.2348 OF 2020

ALONG WITH

INTERIM APPLICATION NO.2346 OF 2020

ALONG WITH

INTERIM APPLICATION (LODGING) NO.3996 OF 2020

IN

SUIT NO.110 OF 2013

Sayed Mahmood Yakub	.. Applicant-Def.No.6
Alviya Ahmed Sayed	.. Applicant-Def.No.3
Asmatbi Amer Khan	.. Applicant-Def.No.5
Rizwan Abdul Kadar Qureshi	.. Applicant-Def.No.7
Sayeed Ahmed Habib Qureshi & Ors.	.. Applicants-Intervenors
<i>In the matter between</i>	
Abdul Razak Haji Ismail	.. Plaintiff
Vs.	
Farid Husein Ahmed Solanki & Ors.	.. Defendants

Mr. R.B. Singhvi, with Mr. D.C. Shah, i/by Lex Services, for the Applicant-Plaintiff.

Mr. Anupam Surve, with Ms. Rajni Divekar and Mr. Pratik Divekar, for Defendant No.1.

Mr. Awais Ahmedji, i/by Mr. Sandeep Waghmare, for the Applicant in IA/3056/2021 in S/110/2013.

Mr. Advait Raorane, i/by Jhangiani Narula and Associates, for Defendant Nos.8 to 14.

Adv. Chani Budhadev for Defendant No.31.

Mr. Sameer Khedekar for the Intervenor in IA(L)/4703/2020.

Mr. Aseem Naphade, i/by Mr. A.P. Singh, in IA/219/2021.

CORAM : A. K. MENON, J.

DATED : 5TH APRIL, 2021.

P.C. :

1. By IA/2341/2020, the applicant-original defendant no.6 seeks a direction to pay arrears of rent pursuant to an order dated 5th February 2014. It also seeks vacating the order of status-quo and a direction to defendant no.1 to complete the balance work and handover possession of a flat to the applicant, who is original defendant no.6.

2. There are similar IAs filed by defendant nos.3, 5 and 7 being IA/2347/2020, IA/2348/2020 and IA/2346/2020. The prayers are identical in these four IAs. Vide an order dated 8th February 2021, the plaintiff was directed to deposit a sum of Rs.1.25 crores on or before 15th March 2021, since there are earlier orders of payments of arrears. Today it is stated that the amount has not been deposited. The order dated 8th February 2021 was self-operative in terms that if the amount was not deposited, the order of status-quo granted on 14th August 2019 was to stand vacated. By that order, the court, after hearing parties, disposed Notice of Motion No.544 of 2016 confirming the ad-interim order passed on 13th February 2013. In view thereof, upon default by the plaintiff, the order of status-quo now stands vacated by virtue of the order dated 8th February 2021. That will apply to all these IAs. Accordingly, these IAs have worked themselves out.

3. As far as later part of prayer clause (b) of the aforesaid four IAs is concerned, that is effectively directing specific performance. On behalf of

defendant no.1, it is stated that work has already restarted. This is sought to be controverted by the plaintiff.

4. On behalf of defendant nos.8 to 14, learned counsel submits that they have also filed an application being Interim Application (Lodging) No.3996 of 2020 in the above suit, wherein the reliefs sought are to vacate the order of status-quo dated 13th February 2013, which I have already vacated as above. It also directs payment of arrears of rent. The payment of arrears of rent has already been ordered and a direction to deposit certain monies in court having not been complied, the order of status-quo has been vacated. Accordingly, nothing survives in this IA(L)/3996/2020.

5. Meanwhile, a grievance is made by defendant no.1 that the plaint as originally filed was only against defendant nos.1 and 2. The plaint as now available in court shows that the cause-title has been amended to include defendant nos.3 to 9. The amendment does not appear to be authenticated.

6. In the meantime, it is pointed out that pursuant to order dated 27th February 2020, defendant nos.3 to 9 have been added. The record indicates that though the cause-title has been amended, the amendment has not been authenticated. Learned counsel for the plaintiff seeks extension of time to have the amendment authenticated. Let that be done on or before 22nd April 2021.

7. In the circumstances, I pass the following order :-

- (i) Interim Application Nos.2341 of 2020; 2347 of 2020; 2348 of 2020 & 2346 of 2020 and Interim Application (Lodging) No.3996 of 2020 are disposed in the above terms.
- (ii) Time to have the amendment authenticated is extended till 22nd April 2021.

(A. K. MENON, J.)