

*Sharayu Khot.*

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

NOTICE OF MOTION NO. 1302 OF 2019

IN

SUIT NO. 762 OF 2019

Nikita Vinod Marlecha & Anr.

...Applicants/  
Plaintiffs

*Versus*

M/s. D.G. Realty & Ors.

...Defendants

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Mr. Amogh Singh a/w Mr. Nikhil More a/w Mr. Moksha Doshi i/  
by Bhavin Bhatia for the Applicants/Plaintiffs.

Mr. Vikhil Dhoka iby Mr. Siddhant Sharma for the Defendant  
Nos. 1 to 2.

Mr. Sagar Patil for the Defendant No. 6.  
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CORAM : R.I. CHAGLA J

DATE : 29 November 2021

ORDER :

1. In view of the order passed in Notice of Motion No. 1920 of 2019, this Notice of Motion is being pressed only with regard to the prayer clauses (c) and (g) of Notice of Motion.

2. Prayer clause (c) is for a direction against the

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Defendant Nos. 1 to 3 to complete the construction work of the suit property on time bound schedule and put the Plaintiffs in possession of the suit flat. Prayer clause (g) is for an order directing the Defendant Nos. 1 to 3 to pay a sum of Rs. 14,95,104/- towards the pending rent as per Exh.L and rent of Rs. 32,300/- per month towards the compensation to the Plaintiffs till possession of the suit flat is handed over to the Plaintiffs as per agreement dated 11th December 2013.

3. Insofar as prayer clause (c) is concerned, the learned Counsel for the Defendant Nos. 1 to 3 states that fit out of the suit flat has already been handed over to the Plaintiffs in June, 2021 and this has been recorded in the order dated 30th June 2021 passed by this Court. He states on instructions that the said Defendant Nos. 1 to 3 have applied for occupation certificate in respect of the suit flat and shall endeavour to obtain the occupation certificate at the earliest. The statement made to the Court is accepted as an undertaking to this Court.

4. Insofar as the prayer clause (g) of the Notice of Motion is concerned, by the order passed in the Notice of Motion No. 1920 of 2019, the Court has permitted the Plaintiffs

to withdraw the sum of Rs. 15,00,000/- which had been deposited by the Defendants pursuant to the order of this Court dated 30th April 2019.

5. There is a balance amount of rent which is payable to the Plaintiffs as per the Defendants' computation of Rs. 65/- per sq.ft. x 259 sq.ft. (per month) and to be increased at 10% every 11 months. The Defendant Nos. 1 to 3 undertakes to pay the balance amount of rent payable to the Plaintiffs as per the above computation upon the occupation certificate being obtained and this will be subject to the undertaking of the Plaintiffs to pay the sum of Rs. 11,85,000/- towards extra area admeasuring 59 sq.ft. as due and payable by the Plaintiffs to the Defendants (59 sq.ft. x Rs. 20,000/- per sq.ft. as per the Plaintiffs valuation) upon the Suit being disposed of. The undertakings of the parties are accepted.

6. The Notice of Motion is accordingly, disposed of in the above terms.

**[R.I. CHAGLA J.]**