

Sharayu Khot.

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

INTERIM APPLICATION NO. 25 OF 2020

IN

COMMERCIAL SUIT (L) NO. 1579 OF 2018

Jitendra T. Shah & Ors.

...Applicants

In the matter between

Rasila R. Mehta & Ors.

...Plaintiffs

Versus

Kamla Landmarc Real Estate Holding Private
Limited & Ors.

...Defendants

Ms. Miloni Gala i/by Dhiren Shah for the Applicants.

Ms. Vedanshi Shah i/by Mr. Bipin Joshi for the Defendant No. 2.

Ms. Amruta Kundap h/f Ms. Shraddha Dubeypatil & Co. for the
Defendant No. 3.

Ms. Nikita Ghungarde i/by S. Mistry for the Defendant No. 4.

Mr. Kevin Pereira a/w Mr. Ashwin Sawlani i/by Mr. Chinmaya
Acharya for the Defendant Nos. 5 and 6.

Ms. Prachi Khandge i/by M.P. Vashi & Associates for the
Org. Defendant Nos. 7 to 9.

(No R&P)

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CORAM : R.I. CHAGLA J

DATE : 20 July 2022

ORDER :

1. By this Interim Application, the order dated 7th November 2019 passed by the Taxing Master has been sought to be set aside.

2. Taxing Master by the said order dated 7th November 2019 had directed each Plaintiff to pay separate Court fees on the basis of the value of each flats as being separate cause of action arising out of individual agreement entered into between the Plaintiffs/flat purchasers/allottee with the Defendants. This order of the Taxing Master dated 7th November 2019 is clearly contrary to the settled law including the decision in **Maldar Barrels Private Ltd. Vs. Pearson Drums and Barrels Pvt. Ltd.**¹. This Court had considered the issue of payment of the Court fees in a Commercial Summary Suit. This Court had considered Article 1 of Schedule 1 of the Maharashtra Court Fees Act, 1959 (for short “**Act**”) and by following the decision of this Court in **Syndicate Bank Vs. M/s. S.S. Printers & Ors.**² held that maximum Court fees payable under Article 1 of Schedule 1 is Rs. 3,00,000/-, irrespective of whether such Plaint of Memorandum of Appeal

1 Commercial Summary Suit (L) 6044/22 Order dated 13th July 2022

2 1995(2) Mh.L.J. 198

contains one or more distinct subjects. Section 18 of the Act cannot be read contrary to Article 1 of Schedule 1 of the Act. Thus, maximum Court fees leviable on Plaint is Rs. 3,00,000/-. Taxing Master shall take note of the settled law and not levy Court fees in excess to Rs. 3,00,000/- which is the maximum Court fees payable.

3. Hence, the following order is passed:-

- (i) Impugned order dated 7th November 2019 passed by the Taxing Master, High Court, Bombay is set aside.
- (ii) Leave granted under Order I Rule 8 of the Code of Civil Procedure, 1908 has already been obtained and taken.
- (iii) Registry shall number Commercial Suit (L) No. 1579 of 2018, by considering the Court fees of Rs. 3,00,000/- which has been paid and there being no further objections.
- (iv) In view thereof, Interim Application is disposed of.

[R.I. CHAGLA J.]