

Sharayu Khot.

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

INTERIM APPLICATION NO. 2557 OF 2021

IN

SUIT NO. 226 OF 2021

The Summit Business Park Premises Co-
operative Society Limited

...Applicant/
Plaintiff

Versus

Omkar Realtors & Developers Pvt.Ltd.

...Defendant

WITH

INTERIM APPLICATION NO. 2783 OF 2021

WITH

INTERIM APPLICATION NO. 2946 OF 2021

Mr. Zubin BehramKamdin, Ms. Dipti Das, Mr. Sunil A. Vyas i/by Fox Mandal and Associates for the Applicant/Plaintiff.

Mr. Shakeeb Shaikh a/w Ashrif Diamondwalla iby Diamondwalla & Co. for the Defendant.

Mr. Siddha Pamecha alw Ms. Jinal Shah for the Applicant in IA/1560/22.

Mr. Paras S. Gosar iby Jayesh R. Vyas for the Applicant in IA/1458/22.

Ms. Rekha Rane, 2nd Asstt to C.R. present.

CORAM : R.I. CHAGLA J

DATE : 23 August 2022

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PANDURANG
KHOT

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signed by
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ORDER :

1. The parties have settled their disputes insofar as the above Interim Applications is concerned, being Interim Application No. 2557 of 2021 and Interim Application No. 2783 of 2021 which have been filed by the Plaintiff as well as Interim Application No. 2946 of 2021 filed by the Defendant.

2. Consent Terms dated 22nd August 2022 are tendered. The Consent Terms are taken on record and marked 'X' for identification with today's date. These are signed by the authorised representative for the Plaintiff and the advocates for the Plaintiff as well as the Defendant and the advocates for the Defendant. Representatives of both the sides are present in Court.

3. Appended to the Consent Terms is certified true copy of extract of Resolution of Managing Committee of the Plaintiff whereby they have authorised representative of the Plaintiff to *inter alia* execute the Consent Terms.

4. Further appended to the Consent Terms is the Resolution

of the Board of Directors of the Defendant authorising the Director of the Defendant to execute the Consent Terms.

5. Further appended to the Consent Terms at Annexure A is allocation of car parking as agreed to between the parties and remaining car parkings shall belong to the Plaintiff and the Plaintiff shall be entitled to deal with the remaining car parkings.

6. I am satisfied that the Consent Terms are in order, not contrary to law and have been drawn by the parties of their own volition in reflection of their true intentions.

7. The undertakings, if any, in the Consent Terms being accepted as undertakings to the Court.

8. In clause 10 of the Consent Terms, it is provided that in the event, there is default on the part of the Defendant for completing the Deed of Conveyance of the Suit land and Building which has to be completed within specified period of 18 months, which the parties may further extend by another period of 18 months as provided in sub-Clause (f) of Clause 5 of the Consent Terms, then

in that event, the Suit will be decreed in terms of prayer clause (b) of the Plaint filed in Suit No. 226 of 2021. Also the amount of Rs. 50,00,000/- deposited in the bank/escrow account shall be released to the Plaintiff to the extent of expenses incurred by Deed of Conveyance of the Suit land and building in favour of the Plaintiff and balance amount, if any, shall be released to the Defendant after Deed of Conveyance of the Suit land and Building.

9. Interim Application No. 2557 of 2021 along with Interim Application No. 2783 of 2021 and Interim Application No. 2946 of 2021 stands disposed of in terms of the Consent Terms.

10. Orders passed in the above Interim Applications no longer survive, in view of the disposal of the Interim Application.

11. The Court Receiver appointed by this Court stands discharged without drawing up accounts and upon payment of costs and charges to be borne by the Plaintiff in accordance with Clause 5(a) of the Consent Terms. Upon which the Court Receiver shall handover physical possession of Flat/Unit No. 1222 on 12th Floor of the suit building to the Plaintiff by 25th August 2022.

12. A soft copy of the Consent Terms will be uploaded as the second order in the matter.

13. The Registry is to ensure that the hard copy of the signed Consent Terms is permanently retained on file as part of the record and is not sent for destruction in the ordinary course.

14. Suit No. 226 of 2021 shall be placed on 12th September 2022 for compliance.

15. Parties have already provided in Clause 14 that upon fulfillment of obligations undertaken by each of the parties under the Consent Terms, the parties shall make joint praecipe of withdrawal of the Suit. Liberty to apply.

[R.I. CHAGLA J.]