

Sharayu Khot.

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

INTERIM APPLICATION NO. 1076 OF 2019

IN

SUIT (L) NO. 1525 OF 2018

Hiral Nimesh Chheda

...Applicant

In the matter between

Ketan Manek & Ors.

...Plaintiffs

Versus

Sun Vision Emerald & Ors.

...Defendants

Dr. Birendra Saraf, Senior Advocate a/w Mr. Ranjeev, Mr. Sushant Arora, Ms. Ankita Karmokar, Ms. Vaishnavi Adhav i/by L R & Associates for the Plaintiffs.

CORAM : R.I. CHAGLA J

DATE : 20 July 2022

ORDER :

1. Heard Dr. Birendra Saraf, learned Senior Counsel appearing for the Plaintiffs.

2. Praecipe dated 13th July 2022 has been taken out by the

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Advocate for the Plaintiff circulating the matter on the ground that there is urgency. The Plaintiffs have arrived at Consent Terms with the Defendant Nos. 1 to 4 which is already on record of this Court and that the matter is required to be settled.

3. By the present Interim Application, the Applicant has sought setting aside the order dated 30th September 2019 passed by the Taxing Master, High Court, Bombay. By the said order, the Taxing Master had adjudicated the issue as to payment of Court fees and had directed the Plaintiffs other than Plaintiff Nos. 7 and 8 to jointly pay the Court fees of Rs. 3,00,000/- each, considering the market value of the respective premises. Insofar as the Plaintiff Nos. 7 and 8 are concerned, the Court fees payable on the said market value of the respective flats have been calculated at Rs. 2,25,830/- each.

4. It is the contention of Dr. Birendra Saraf that the Suit has been filed in a representative capacity on behalf of the flat purchasers and leave has been granted by this Court under Order I Rule 8 of the Code of Civil Procedure, 1908.

5. It has been well settled by this Court including in the

recent order in **Maldar Barrels Private Ltd. Vs. Pearson Drums and Barrels Pvt. Ltd.**¹, that maximum Court fees payable for a Plaint is Rs. 3,00,000/- irrespective of whether it is filed for one or more distinct subjects.

6. In **Maldar Barrels Private Ltd.** (supra), this Court had considered the view taken by the Taxing Master that in the event, the Suit has been filed on invoices, each invoice be treated to be a distinct subject on which there is a monetary claim and Court fees are payable on the amount due and payable under each invoice. This Court had relied on the decision of this Court in **Syndicate Bank Vs. M/s. S.S. Printers & Ors.**², which has held that Section 18 of the Maharashtra Court Fees Act, 1959 (for short “**Act**”) is necessarily governed by the rules found in the schedules and amongst them by the proviso to Article 1 Schedule 1 of the Act, limiting the amount of fees on a Plaint or Memorandum of Appeal fixed at Rs. 15,000/- (now Rs. 3,00,000/-) payable whether such Plaint or Memorandum of Appeal contains one or more distinct subjects. This Court accordingly, held that the maximum Court fees payable under Article

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

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

1 of Schedule 1 is Rs. 3,00,000/- irrespective of whether such Plaintiff or Memorandum of Appeal contains one or more distinct subject.

7. In the present case, the Plaintiff cannot jointly be made liable to pay the Court fees in respect of their respective premises as has been done by the Taxing Master in the impugned order dated 30th September 2019 by calculating the Court fees on the market value of each premise. This is clearly contrary to Article 1 of Schedule 1 of the Maharashtra Court fees Act which provides maximum Court fee leviable on Plaint at Rs. 3,00,000/-. Thus, the impugned order is contrary to the settled law as well as the Act.

8. Accordingly, following order is passed:-

- (i) Impugned order dated 30th September 2019 passed by the Taxing Master, High Court, Bombay is set aside.
- (ii) Maximum Court fees payable in the present Suit is Rs. 3,00,000/- and it is noted that the maximum Court fees of Rs. 3,00,000/- has been paid for filing of the present Suit.

(iii) The present Suit shall be numbered by the Registry.

(iv) The Interim Application is accordingly disposed of.

[R.I. CHAGLA J.]