

HARSHADA H. SAWANT
(P.A.)

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.14751 OF 2018

Veena Nagar Co-Op. Hsg. Soc. Ltd.

.. Petitioner

Versus

Nirman Construction Pvt. Ltd. and Ors.

.. Respondents

.....

- Mr. P. D. Thorat a/w. Mr. Ashok M. Sarogi i./by Mr. Prajot H. Jaggi for Petitioner
- Mr. Siddharth Murarka a/w. Mr. Devendra Tiwari I./by Law Chamber of Siddharth Murarka for Respondent No.3
- Mr. P. P. Pujari, AGP for Respondent No.4
- Respondent No.3 present through Sunit Gupta

.....

CORAM : MILIND N. JADHAV, J.

DATE : FEBRUARY 09, 2023

P.C.:

1. Heard Mr. Thorat, learned Advocate for Petitioner, Mr. Murarka, learned Advocate for Respondent No.3, Mr. Pujari, learned AGP for Respondent No.4 and Respondent No.3 present through Mr. Gupta.

2. Parties have tendered Minutes of Order dated 09.02.2023 which are signed by the learned Advocates for both the parties. The Minutes of Order is taken on record and marked 'X' for identification. The undertaking recorded in Minutes of Order are accepted as undertaking given to this Court.

3. The scanned copy of the Minutes of Order are reproduced below for convenience:-

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(6 X 22)

M. Jadhav
19/2/2023

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO. 14751 OF 2018

DISTRICT: MUMBAI

Veena Nagar Co-op. Hsg. Ltd. ..PETITIONERS

V/s.

Nirman Constructions Pvt. Ltd. ..RESPONDENTS

Dated : 9th February, 2023

Coram: Hon'ble Mr. Justice Milind Jadhav J.

MINUTES OF THE ORDER

1. The Petitioner has filed S.C. Suit No.1241 of 2017 against the Respondent Nos.1 & 2 before the City Civil Court at Dindoshi, Mumbai for seeking conveyance of the property bearing CTS No.669 to 672, Survey No.358 to 260 admeasuring 8470 sq. yards situate at Pabadi Division, at Junction of S.V. Road and Govind Nagar Road, Malad (West), Mumbai 400064.
2. The Respondent No.3 Company filed Chamber Summons No.1434 of 2017 in S.C. Suit No.1241 of 2017 for being impleaded as party Defendant in the said Suit filed by the Petitioner.

[Signature]

[Signature]

3. That by an Order dated 7th December, 2018 the Learned Judge, City Civil Court at Dindoshi, Mumbai was pleased to allow Chamber Summons No.1434 of 2017 in S.C. Suit No.1241 of 2017 thereby directing the Petitioner to implead the Respondent No.3 as party Defendant No.3 in the said Suit.

4. That being aggrieved by the said Order dated 7th December, 2018 passed by the Learned Judge, City Civil Court at Dindoshi, Mumbai in Chamber Summons No.1434 of 2017 in S.C. Suit No.1241 of 2017 the Petitioner has filed the present Writ Petition.

5. That by an Order dated 21st January, 2019 this Hon'ble Court was pleased to admit the present Writ Petition and was further pleased to stay the operation and implementation of the Order dated 7th December, 2018 passed by the Learned Judge, City Civil Court at Dindoshi, Mumbai in Chamber Summons No.1434 of 2017 in S.C. Suit No.1241 of 2017.

6. That being aggrieved by the Order dated 21st January, 2019 passed by this Hon'ble Court in the present Writ Petition the Respondent No.3 filed SLP (Civil) No.6534 of 2019 before the Hon'ble Supreme Court of India. That by an Order dated 14th December, 2021 the Hon'ble Supreme Court of India was pleased to



dispose off the SLP (Civil) No.6534 of 2019 filed by the Respondent No.3. The Hon'ble Supreme Court was pleased to observe that the Respondent No.3 has also filed S.C. Suit No.201063 of 2019 before the City Civil Court at Dindoshi, Mumbai against the present Petitioner and Respondent Nos.1 & 2. It is observed that the S.C. Suit No.1241 of 2017 and S.C. Suit No.201063 of 2019 filed by the Respondent No.3 can be tried together.

7. The Hon'ble Supreme Court of India had disposed off the SLP (c) No.6534/2019 between Respondent No.3 and Plaintiff, vide Order dated 14/12/2021 as under:

"Heard Learned Counsel for the parties. We dispose of this Petition with a request to the High Court to expedite the hearing of Writ Petition © No.14751 of 2018, preferably before the end of March, 2022.

Until further orders to be passed by the High Court, the subject trial pending before the City Civil Court shall remain pending.

It will, however, be open to the parties to request the City Civil Court to proceed with the stated suit being Civil



Suit No.1241 of 2017 as well as fresh suit filed by the Petitioner being Civil Suit No.201063 of 2019 together.

If such request is made, the same be considered appropriately; and if granted, the issue raised in the Writ Petition dealt with vide impugned Judgment may not survive for consideration.

The Petitioner before this Court submits through counsel that the Petitioner is agreeable to produce common evidence in both the suits, to avoid multiplicity of proceedings."

8. In the light of the Order dated 21st December, 2021 passed by Hon'ble Supreme Court of India was pleased to dismiss the SLP (Civil) No.6534 of 2019 the present Writ Petition is disposed of in the following terms :

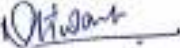
- (i) The Writ Petition No.14751 of 2018 is allowed. The Order dated 7th December, 2018 passed by the Learned Judge, City Civil Court at Dindoshi, Mumbai in Chamber Summons No.1434 of 2017 in S.C. Suit No.1241 of 2017 is quashed and



set aside and the Chamber Summons No.1434 of 2017 is dismissed,

- (ii) The suits being Suit No.1241 of 2017 and Suit No.1063 of 2019 i.e. suits of Petitioner and Respondent No.3 and or its members, shall be clubbed and decided together.
- (iii) The parties shall lead their evidence as common evidence in both suits, after the issues are framed together.
- (iv) The City Civil Court at Dindoshi, Mumbai is directed to hear the S.C. Suit No.1241 of 2017 filed by the Petitioner and S.C. Suit No.201063 of 2019 filed by the Respondent No.3 on or before 30/09/2023.
- (v) All contentions of the parties on merits of the case are kept open.
- (vi) No Order as to costs.
- (vii) Writ Petition disposed in the above terms.


Advocate for Petitioner
Adv. Prateek H. Jaggi

For Law Chamber of Siddharth
Murarka

Advocate for Respondent No.3
Devendra Tiwari

4. In view of above, Writ Petition is disposed.

[MILIND N. JADHAV, J.]