

Sayali Upasani

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
IN ITS COMMERCIAL DIVISION**

**NOTICE OF MOTION NO-699 OF 2017
IN
SUIT NO-2894 OF 2011**

New Purshottam Nagar CHS Ltd

...Applicant/
Plaintiff

Vs.

Jayesh B. Mistry and Ors

...Defendants

Mr. G.S. Godbole with Mr. Niranjan Waghela with Ms. Revati Desai and Aayushi Gohil i/b M/s M.T. Miskita and Co., for Plaintiff.

Mr. Mayur Khandeparkar with Pooja Kane, Bharat Jain, Riya Makana and Dev Tejnani i/b I C Legal for Defendant No. 2.

Mr. Pradeep Sancheti, Senior Advocate with Jitendra Jain and Yogesh Adhia i/b Adhia and Adhia, for Defendant No. 3.

Mr. Aditya Chitale with Mr. Prathamesh Bhosle, for Defendant No. 5.

CORAM:- N. J. JAMADAR, J.

DATED:- 16th FEBRUARY, 2023

PC:-

NOTICE OF MOTION NO-699 OF 2017

- 1) Heard the learned Counsel for the parties.
- 2) By an order dated 27th June, 2017, this Court declined to grant ad-interim protection. In the meanwhile, it seems the construction has being carried out and the building is complete.
- 3) Mr. Sancheti, the learned Counsel for defendant No. 3 submits that the occupation certificate has been granted and, thereafter, the flats in the building have been allotted and occupied.
- 4) Mr. Godbole, the learned Counsel for the applicant/plaintiff submits that on account of the developments, in the intervening period, the prayers “a” to “d” in the Notice of Motion have been rendered infructuous. Mr. Godbole, on instructions, submits that the applicant/plaintiff desire to reserve the liberty to revive the prayers sought in prayer Clause “e” & “f”.
- 5) Mr. Godbole further submits that the defendant No. 3 be directed to inform the prospective purchasers and transferries about the pendency of the instant Suit.

6) Mr. Sancheti submits that the defendant No. 3 has disclosed on the RERA website that the instant Suit is subjudice.

7) The declaration made on RERA website seems to be adequate. In any event, this Court in the order dated 27th June, 2017, clarified that in the event third party rights are created they would always be subject to the final orders that may be passed in these proceedings.

8) While reiterating that the rights of the parties including of the third parties would be subject to the outcome of the Suit, the Notice of Motion stands disposed.

No costs.

[N. J. JAMADAR, J.]