

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

**INTERIM APPLICATION NO. 2558 OF 2022
IN
SUIT NO. 980 OF 2018**

Ajay Haridas Ganatra ..Applicant
VS.
Rakesh Uttamchand Shah and Ors. ..Respondents

Mr. Viraj Parikh, Counsel a/w Mr. Amit Kanani, Advocate a/w
Ms. Khyati Kanani, Advocate i/b Kanani & Co. for the
Applicant/Plaintiff.

Adv. Ruchir Tolat i/b J. Parmar for the Defendant Nos. 1 to
3.

CORAM : R.I. CHAGLA, J

DATED : 27 MARCH 2023

P.C. :

- 1.** By this Interim Application, the Applicant is seeking an amendment to the Plaint as per the schedule annexed to the Interim Application.
- 2.** The Applicant has stated that the proposed amendment has arisen in view of certain documents and plans discovered by the Plaintiff/Applicant after filing the present Suit on the MCGM website AutoDCR which relate to the redevelopment of the New Tambakuwala Building i.e.

Scrutiny Reports, Tenant Statements and Sanctioned Plans. The Applicant/Plaintiff learnt from these documents and plans that their entitlement is to claim 35% compensatory fungible FSI which the Defendants have claimed fully from the MCGM and had not passed on to the Plaintiff. Further, certain other facts such as the delay in the completion of the redevelopment and with regard to the temporary alternate accommodation compensation being not sufficient to account for the increased cost of rent/leave and license in the City of Mumbai are also being sought to be added as additional facts to the Plaint.

3. Mr. Tolat learned counsel appearing for Defendants states that these facts are already part of the original Plaint wherein the plaintiff has sought additional area and also additional compensation in view of temporary alternate accommodation and for registration of the permanent alternate accommodation agreement as required under the Memorandum of Understanding.

4. Having considered the averments in the Interim Application, the amendment sought is a pre-trial

amendment and as aforementioned is sought on account of the plaintiff having learnt after filing of the present Suit from the documents and plans, on the MCGM website AutoDCR which relate to the redevelopment of the subject building and which includes Scrutiny Reports, Tenant Statements and Sanctioned Plans. The objection with regard to the facts sought to be added by amendment already being part of the original Plaint has no merit as these facts were learnt of only after filing of the Suit.

5. Accordingly, the relief sought for in the Interim Application is granted. Hence, the following order is passed.

ORDER

- (a) Applicant/Plaintiff is permitted to amend the Plaint as per the schedule annexed to the Interim Application.
- (b) The amendment shall be carried out within a period of two weeks from the date of this order.
- (c) Re-verification is dispensed with.

(d) The Applicant/Plaintiff upon carrying out the amendment shall simultaneously serve on the Defendants the amended Plaintiff.

(e) Upon the amended Plaintiff being served on the Defendants, the Defendants are at liberty to file additional Written Statement dealing with the amended Plaintiff, which shall be filed within a period of four weeks from the service thereof.

(f) Interim Application is disposed of.

[R.I. CHAGLA J.]