

HARSHADA H. SAWANT
(P.A.)

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.8167 OF 2024

M/s. Crescent Builders and Developers and Anr. .. Petitioners

Versus

Lourdes Vernoica Baptista and Ors. .. Respondents

WITH
INTERIM APPLICATION NO.9765 OF 2024
IN
WRIT PETITION NO.8167 OF 2024

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- Mr. Karl Tamboly a/w. Mr. Parimal K. Shroff, D. V. Deokar, Mr. Sachin Pandey and Mr. Shreyas Vyas, Advocates for Petitioners.
 - Mr. Shanay Shah a/w. Mr. Durgesh Kulkarni i./by Dione C. Baptista, Advocates for Respondent No.1.
 - Mr. Yash Tiwari, Advocate for Respondent Nos.2 to 4.
 - Mr. Nikhilesh Koundinya a/w. Mr. Mustafa Bohra i./by M/s. Solomon & Co., Advocates for Respondent No.7.
 - Ms. V. N. Worlikar, Section Officer, Court Receiver.
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CORAM : MILIND N. JADHAV, J.

DATE : AUGUST 07, 2024

P.C.:

1. Heard Mr. Tamboly, learned Advocate for Petitioners; Mr. Shah, learned Advocate for Respondent No.1; Mr. Tiwari, learned Advocate for Respondent Nos.2 to 4; Mr. Koundinya, learned Advocate for Respondent No.7 and Ms. Worlikar, Section Officer.

2. After hearing learned Advocates for respective parties for sometime and deliberating with them the issue involved in the present case, in so far as the larger issue pertaining to the suit property is

concerned, I have impressed upon parties that if it is possible for them to apportion the available immovable property (7 flats) in the constructed building amongst themselves, it would enure to the benefit of the parties as also considering the fact that the development is complete and the present suit has been filed pursuant to obtaining Occupation Certificate in the year 2017 and the Society of flat owners already exists.

3. One of the reason as to why I have impressed upon the parties to take a reconciliatory approach is because Plaintiff's claim of one third share in the land on which said development has already been completed by Defendant No.1, but it can be worked out if the parties agree to apportion the 7 flats.

4. Mr. Shah has in his usual fairness taken instructions and would submit that if the erstwhile Developer represented by Mr. Tiwari agrees, an apportionment is possible. *Prima facie*, I feel this is a situation where if parties attempt to reconcile their dispute, then the dispute can get worked out.

5. Hence parties are directed by this Court alongwith their Advocates to sit and reconcile without prejudice to their rights and contentions and see if reconciliation is possible on any of the terms which are discussed in the Court today. If the parties require any assistance from this Court for appointment of a Mediator, the same

shall be informed to the Court on the next adjourned date.

6. Stand over to **14th August, 2024 at 02:30 p.m.**

H. H. SAWANT

[MILIND N. JADHAV, J.]

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