

HARSHADA H. SAWANT
(P.A.)

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

CIVIL REVISION APPLICATION NO.170 OF 2024

Messrs Kaycee Corporation

.. Applicant

Versus

Suresh Ramchand Mehta

.. Respondent

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- Mr. Vishal Kanade a/w. Mr. Rohit Gupta, Mr. Jimish Shah and Mr. Anston Vaz i./by Divya Shah Associates, Advocate for Applicant.
- Mr. Rahul Soman a/w. Mr. Suyash More, Advocate for Respondent No.1.
- Mr. Nilesh Parte, Advocate for Respondent Nos.2, 3 and 5.

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CORAM : MILIND N. JADHAV, J.

DATE : MARCH 22, 2024

P.C.:

1. Heard Mr. Kanade, learned Advocate for Applicant, Mr. Soman, learned Advocate for Respondent No.1 and Mr. Parte, learned Advocate for Respondent Nos.2, 3 and 5.

2. There is a distinct possibility of the present dispute between the Respondent No.1 on one hand and Respondent Nos.2, 3 and 5 on the other hand being settled.

3. Suit is filed for specific performance of agreement executed by the Respondent No.1 and Respondent Nos.2, 3 and 5 in respect of the suit property. Suit property is sold / handed over to the Revision Applicant under Consent Terms who is in possession of the said suit property since the year 1996. Suit has been filed in the year 1999 for

specific performance.

4. Mr. Parte, learned Advocate appearing for Respondent Nos.2, 3 and 5 who are the original Defendant Nos.1, 2 and 4 before the Trial Court without prejudice to the rights of the parties including that of the Plaintiff made a suggestion that the said Defendants shall return back the amount received from the Plaintiff alongwith interest @ 12% per annum which is the alternative relief sought for in the suit plaint.

5. Though Mr. Soman in his usual fairness would submit that considering the facts and circumstances of the present case, the suggestion made by Mr. Parte may *prima facie* appear to be fair, but he is bound by his client's instructions since Plaintiff is of the opinion that return of the amount has to be in commensurate with the increase / hike in property prices rather than simplicitor on the basis of interest offered by the Defendants.

6. Mr. Soman may not be entirely right, since the suit is yet to be determined. Suit is filed in the year 1999 and it has remained pending for more than 25 years. Though this Court would not like to delineate on the merits of the matter today, however if there is a distinct possibility of settlement between the Plaintiff on the one hand and Defendant Nos.1, 2 and 4 on the other hand, then the same will enure to the benefit of all parties.

7. In that view of the matter, reserving rights of all parties this Court is requesting the Plaintiff and Defendant Nos.1, 2 and 4 to reconcile their disputes by offering and receiving the amounts in view of the fact that third party rights have already been created in favour of the Applicant much prior to the filing of the suit proceedings. This is only a suggestion to enable the parties to resolve their disputes. Needless to state that it shall be without prejudice to the rights and contentions of all parties.

8. Mr. Soman and Mr. Parte, learned Advocates appearing for the respective parties are requested by this Court to persuade their respective clients to put an amicable end to the present *lis* if it is possible.

9. Civil Revision Application is adjourned to **15th April, 2024** to enable the parties to inform the Court accordingly. To be placed under the caption 'for directions'.

H. H. SAWANT

[MILIND N. JADHAV, J.]

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