

Ashwini

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
CONTEMPT PETITION NO. 48 OF 2016
IN
REVIEW PETITION NO. 10 OF 2013
IN
NOTICE OF MOTION NO. 80 OF 2013
IN
WRIT PETITION NO. 2761 OF 2012

Manjula R Sampat (Since Deceased) & Anr ...Petitioners
Versus
Manoj Dilip Kapadia, partner of Araddhana ...Respondents
Enterprises

WITH
SHOW CAUSE NOTICE NO. 1 OF 2023
IN
CONTEMPT PETITION NO. 48 OF 2016
IN
REVIEW PETITION NO. 10 OF 2013
IN
NOTICE OF MOTION NO. 80 OF 2013
IN
WRIT PETITION NO. 2761 OF 2012

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WITH
CHAMBER SUMMONS NO. 164 OF 2017
IN
CONTEMPT PETITION NO. 48 OF 2016
IN
REVIEW PETITION NO. 10 OF 2013
IN
NOTICE OF MOTION NO. 80 OF 2013
IN
WRIT PETITION NO. 2761 OF 2012
WITH
NOTICE OF MOTION NO. 574 OF 2017
IN
CONTEMPT PETITION NO. 48 OF 2016
IN
REVIEW PETITION NO. 10 OF 2013
IN
NOTICE OF MOTION NO. 80 OF 2013
IN
WRIT PETITION NO. 2761 OF 2012
WITH
CHAMBER SUMMONS NO. 277 OF 2017
IN
CONTEMPT PETITION NO. 48 OF 2016
IN

REVIEW PETITION NO. 10 OF 2013
IN
NOTICE OF MOTION NO. 80 OF 2013
IN
WRIT PETITION NO. 2761 OF 2012

Mr Karl Tamboly, i/b Hemant J Dube, for the Petitioners.
Mr Rohaan Cama, i/b Deval Anja, for Respondent No 1-developer.
Mr Ashok Joshi, Ms Heena Joshi, Mr Kamalesh Sampat & Ms
Kirtida Sampat, Petitioners present in person.
Mr Manoj Kapadia, partner of Araddhana Enterprises, present.

CORAM G.S. Patel &
Kamal Khata, JJ.
DATED: 30th January 2024

PC:-

1. The Contempt Petition can now be disposed of.

2. The necessary Agreement for alternative accommodation was executed in the Court itself. We are shown signed copies. The first has been signed by the partner of Araddhana Enterprises. The two individuals have also signed. They will make the necessary arrangements for registration and admitting execution between themselves. We leave it to the parties to coordinate the time and date in this regard.

3. The constitution of the developer firm has changed from a partnership to a proprietorship and that change will have to be effected since the other partner has recently passed away. The name will however continue.

4. The other question was in regard to payment of society dues and maintenance charges prior to today. Mr Tamboly states that the Petitioners were not in possession up to now and cannot be expected to pay past dues from the date of the Occupation Certificate (“OC”). That is correct. Before us, a statement is made that the developer will pay for the dues up till tomorrow but from tomorrow, i.e., 31st January 2024, it is the two individuals who will be liable to pay society dues, maintenance charges, and outgoings. In addition, of course, the two individuals will have to pay such amounts as may be necessary for an entrance fee and for share money to the society.

5. There are no other dues reported to us. Stamp duty and registration charges are agreed to be borne by the developer except for an additional area that has been taken by the individuals. It is for the additional areas that the individuals will be liable to pay stamp duty and registration charges.

6. However, we expressly keep open for appropriate proceedings in a competent forum or tribunal, all contentions on both sides in regard to any claim that the two individuals may have for past arrears or dues of transit rent. We have expressed no opinion on this aspect of the matter. All contentions are expressly kept open.

7. It goes without saying that, the two Contempt Petitioners must be set at liberty to inspect the premises for their habitability and readiness for occupation before they take actual physical possession of the premises. It is for the parties to fix a date for inspection and possession. At this stage, Mr Tamboly states that so as not to leave any controversy open, the two Contempt Petitioners will carry out the inspection today itself.

8. In view of this, the pending Show Cause Notice stands discharged. There will be no order as to costs.

9. The Contempt Petition will not survive. All Interlocutory Applications do not survive and are disposed of accordingly.

(Kamal Khata, J)

(G. S. Patel, J)