

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

NOTICE OF MOTION NO.1392 OF 2013

IN

SUIT NO.290 OF 2013

Bhatia Builders and Developers Pvt. Ltd.

.....Plaintiff

versus

Dahisar Co-op. Hsg. Society Ltd. And Ors.

.....Defendants

Mr. P.K.Samdani, Senior Advocate with Mr. A.Shaikh i/by Mr. S.D.Mishra,
for Plaintiff.

Mr. R.D.Soni, for Defendant No.1.

Mr. P.B.Shah, for Defendant Nos.3 and 6.

CORAM: S. J. KATHAWALLA, J.

DATE: 24TH JUNE, 2014

P.C.

1. The Plaintiff Developer has entered into an Agreement with the Defendant No.1 Society, whereunder the Defendant No.1 has given the right to develop the property of the Society to the Plaintiff on terms and conditions agreed therein. Some members of the Society refused to co-operate with the Plaintiff Developer. The Plaintiff therefore, filed the above Suit and took out the above Notice of Motion, seeking directions against the non co-operating members to handover vacant and peaceful possession of their respective tenements to the Plaintiff / Defendant No.1

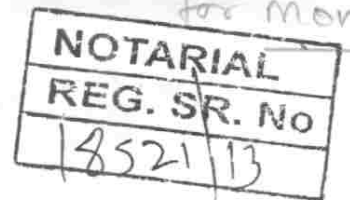
Society for the purpose of carrying out the development work on the Suit property. The Notice of Motion was heard and reserved for orders. In the meantime, the Mumbai Municipal Corporation demolished all the structures on the Suit property since they were in a completely dilapidated condition. In view thereof, the question of directing the non co-operating members to handover possession of their tenements to the Plaintiff does not arise.

2. The learned Advocate for the Plaintiff therefore, seeks to withdraw the above Notice of Motion with liberty to take out a fresh Notice of Motion in future if the circumstances so require. The Notice of Motion is accordingly disposed of as withdrawn with liberty as sought. However, at the request of the learned Advocate appearing for the Defendant Nos.3 and 6, the Plaintiff is directed not to commence the construction work on the suit plot for a period of two weeks from the date of this order. It is also clarified that this order shall not preclude the Municipal Corporation of Greater Mumbai from sanctioning the Plan submitted by the Plaintiff on merits.

(S.J.KATHAWALLA, J.)

Co. Op Court

17-6-13



BEFORE THE HON'BLE JUDGE IV CO.OP. COURT AT
MUMBAI

INJUNCTION APPLICATION NO. OF 2013 (EXH. 5)

DISPUTE NO. CC/IV/31 OF 2013

MR. RAJESH SAWLA & ORS. ... DISPUTANTS

V/S.

DAHISAR SUMATI CHS LTD. ... OPPONENT



ADDITIONAL AFFIDAVIT IN REPLY OF THE OPPONENT

I, SHRI RAJARAM Y. TAWDE, Secretary of the
Opponent Society do hereby solemnly state as under :-

1. I say that I have filed a short Affidavit to oppose the ad-
interim reliefs on 7/3/2013. Now since the Exhibit "5"
Injunction Application is to be heard finally therefore I am filing
this Additional Affidavit.

2. I repeat, retreat and confirm whatever I have stated in
my Affidavit in reply dated 7/3/2013. I say that I have already
filed Written Statement on 28/3/2013. I repeat, retreat and
confirm the statement and averments made in the said Written
Statement.

3. I say that the present dispute is filed by the Disputants
challenging the General Body Resolution dated 4/3/2012
Exhibit "E" annexed to the dispute and to enforce the circular
dated 3/1/2009 at Exhibit "H". In this context, the Disputant
has prayed for interim reliefs that the Opponent should not
proceed with the redevelopment project of the opponent society.

1 Metropolitan
Court III
to Monise

IN THE COURT OF METROPOLITAN MAGISTRATE, 39TH
COURT AT VILE PARLE

COMPLAIN NO. 4387/SS/2013 ✓

BRIHA MUMBAI CORPORATION OF)

GREATER MUMBAI

) COMPLAINANT

V/s.

1. **SHRI RAJARAM TAWDE**)

Secretary.)

2. **MRS. CHHAYA ASGAONKAR**)

Chairman.)

3. **Dahisar Sumati Co.op. Hsg.**)

Society Limited.)

ACCUSED

APPLICATION FOR
PROVISIONAL CASH
BAIL/P.R. BOND/SURETY

MAY IT PLEASE YOUR WORSHIP

We the Applicant / Accused No.1 Mr. Rajaram Tawde, Hon'ble
Secretary residing at _____

_____ and the Applicant / Accused No.2
Mrs. Chhaya Asgaonkar, Hon'ble Chairman residing at _____

_____ and
No.3 Dahisar Sumati Co.op. Hsg Soc Ltd, having its office
address at _____

_____ respectfully submits as under:

1. The Applicants respectfully submit that the present
complaint filed by the M.C.G.M is not maintainable and liable to be
dismissed as the Notice issued by the M.C.G.M is an afterthought