

IN THE COURT OF SESSIONS FOR GREATER BOMBAY, AT BOMBAY

CRIMINAL REVISIONS APPLICATION NO. 663 OF 2016

1. Runwal Constructions

Runwal Group, Runwal & Omkar Esquare,
5th Floor, Express Highway, Opposite
Sion-Chunabhatti Signal, Sion (East),
Mumbai 400 022.

2. Mr. Subhash Runwal

Chairman, Runwal Constructions,
Runwal & Omkar Esquare,
5th Floor, Express Highway, Opposite
Sion-Chunabhatti Signal, Sion (East),
Mumbai 400 022.

3. Mr. Sandeep Runwal

Director, Runwal Constructions,
Runwal & Omkar Esquare,
5th Floor, Express Highway, Opposite
Sion-Chunabhatti Signal, Sion (East),
Mumbai 400 022.

4. Mr. Subodh Runwal,

Director, Runwal Constructions,
Runwal & Omkar Esquare,
5th Floor, Express Highway, Opposite
Sion-Chunabhatti Signal, Sion (East),
Mumbai 400 022.

.. Applicants

V/s

Mr. Vinod S. Sharma

G/178, Mulund Darshan,
Mulund Colony,
Mumbai 400 082.

.. Respondent

Mr. Abad Ponda, Advocate for applicant.

Mr. Atul Thakkar, Advocate for Respondent no.1.

**CORAM: HER HONOUR THE ADDL SESSIONS JUDGE
SMT. SHAYANA V. PATIL (C.R.NO.21)**

DATE : 21st December, 2016.

JUDGMENT

This is a revision application filed against the order of issuance of process against the applicants by order dated 06.02.2016 passed by Ld. MM 27th Court, Mulund, Mumbai in CC No. 1708/SS/2015 for the offence u/sec. 3 & 4 r/w section 13 of Maharashtra Ownership of Flats Act

2 The revision case to be admitted and the respondent appeared by filing vakalatnama. It was submitted initially by the advocate for the respondent that the respondent concedes for remanding the revision to Trial Court on the limited point of necessity regarding the proper verification of complainant. The advocate for applicant submits that the matter may be remanded on such point however, other grounds of revision may be kept open.

3 Heard both the advocate on such limited point and perused the record of revision.

4 The revision application reveals that the impugned process issuance order is challenged mainly on the ground of improper recording of verification statement of the complainant in view of the Section 200 of Cr.P.C. whereas the application also reveals certain other general grounds. As such, since main point of arguments was the manner of recording of verification statement and even the respondent has conceded that as the verification of the complainant in ready-made

type written form is accepted by the trial court without going into exercise of recording the statement of complainant on oath before the court u/sec. 200 of Cr.P.C., the matter needs to be remanded back to the Trial Court for such exercise.

5 It needs to be considered that apart from any other ground and the merits of such other grounds, if any, it is prima-facie apparent that the impugned order was passed without recording statement of complainant u/sec. 200 of Cr.P.C. Under such circumstances, it would be a justifiable ground to remand the matter to the trial court. It would always be open for the applicants to agitate or challenge the order of issuance of process, if any, passed by the trial court against the applicant in said matter after re-recording of such verification. Such right need not be conferred on the applicants by granting any specific liberty by this order as it would be a right of the applicants to challenge the impugned order on other grounds as they have admittedly not given up other grounds agitated by them in present revision.

6 The Ld. Advocate for the applicant has also submitted that the matter should not be directed to be disposed of in time-bound manner by the trial court, however, it needs to be considered that the complaint is filed in October 2015 before the Trial Court, the impugned order of process came to be passed in February 2016 whereas the proceeding before the Trial Court is already stayed during pendency of this revision. In view of such prolonging of the matter at the stage of issuance of process itself, it would be necessary to direct the time-bound

progress in the matter at least regarding the issuance of process, if any, by the trial court within reasonable period. Hence, the order as follows:

ORDER

1. Revision application no. 663/16 is allowed.
2. The impugned order of issuance of process dated 06.02.2016 passed by Ld. MM 27th Court, Mulund, Mumbai in CC No. 1708/SS/2015 is hereby set aside with directions as follows :
 - A. The matter is remanded back to the Trial court for the purpose of recording verification of the complainant afresh under section 200 of Cr.P.C. within two months from the date of receipt of this intimation by the Trial court and proceed according to law.
 - B. Order be intimated to the Trial court.
3. Revision application is disposed off accordingly.

(SHAYANA V. PATIL)
Addl. Sessions Judge
Gr. Mumbai.

Date: 21.12.2016

Dictated on : 21.12.2016
Transcribed on : 26.12.2016
Signed on : 27.12.2016

“ CERTIFIED TO BE TRUE AND CORRECT COPY OF THE ORIGINAL
SIGNED JUDGMENT / ORDER.”

UPLOAD DATE AND TIME : 27.12.2016 at 3:05 pm

NAME OF THE STENOGRAPHER : Mrs. Rekha Prakash Patil

Name of the Judge	HHJ Smt. Shayana V. Patil, Court Room No.41.
Date of pronouncement of Judgment/Order	21.12.2016
Judgment/Order signed by P.O. on	27.12.2016
Judgment/Order uploaded on	27.12.2016