

CNR No.MHSCA20010732020

IN THE COURT OF SMALL CAUSES AT MUMBAI

ORDER BELOW EXHIBIT - 16

IN

R.A.D. SUIT NO.424 OF 2020

1. Karl Neville Mascarenhas & Anr. Plaintiffs

V/s

Suvidha City Private Limiteds Defendant

Coram:- K. R. Rajput, Judge

Court Room No.6

Date : 23/11/2023

ORAL ORDER :

Shri Atul Bhupatrai Gandhi is present as C.A. of the plaintiffs with Shri Milind Nar, learned advocate for the plaintiffs. The defendant is absent. Ms. Sana Qureshi, holding advocate for the defendant is present. Considering the reasons to set aside order dated 27/06/2023 passed below Exhibit-1 for dismissal of the suit due to failure on the part of the plaintiff to lead the evidence, if any, reply given below Exhibit-17, available record and the submissions, I find it justifiable to allow the present application and grant an opportunity to the plaintiffs to proceed with the suit so that the real controversy in dispute gets resolved on merits. However, it is pertinent to note that the conduct of the plaintiffs is such in which they failed to lead evidence though issues were framed on 20/12/2022 and after passing adverse order below Exhibit-1 dated 27/06/2023, this present application was filed on 25/09/2023 that too without any verification clause or signature of the plaintiffs and/or their Constituted Attorney, if any. Further it is to be noted that this application was simply filed by

mentioning to give 4 weeks time for leading evidence which was not found to be justifiable and thereafter another application below Exhibit-18 was filed on 16/10/2023 to permit them to take their affidavit in lieu of examination-in-chief on record. However, documents mentioned in that evidence affidavit were not produced and thereafter again time was sought and it is to be noted that today it is informed that they are producing the documents for which another application for production of documents is filed below Exhibit-20. Thus, the conduct of the plaintiffs as can be seen from the present application dated 25/09/2023 read with the subsequent applications filed till today clearly show that the plaintiffs are prolonging the suit for no justifiable reason. Hence, it has become necessary to impose heavy cost upon them for such conduct so that the defendants should not suffer any harm or prejudice. Considering the facts and circumstances, an amount of Rs.500/- to be given to the defendants forthwith shall be a justifiable amount for allowing the present application. In the result, the following order:-

: ORDER :

- 1) The present application Exhibit-16 stands allowed as prayed subject to cost of Rs.500/- to be paid to the defendants forthwith.
- 2) Upon payment of cost, the order dated 27/06/2023 passed below Exhibit-1 shall set aside.

Date : 23/11/2023

Sd/-
(K. R. Rajput)
Judge, C. R. No.6