

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

APPEAL FROM ORDER NO.957 OF 2023

WITH

IA/17483/2023 in AO/957/2023

WITH

APPEAL FROM ORDER (ST.) NO.31717/2023

WITH

IA(ST)/31719/2023 IN AO(ST)/31717/2023

Chandrakant Joshi & Ors.

.... Appellant

Versus

M/s. Shree Durga Vastu Markets

Pvt. Ltd. & Ors.

.... Respondents

....

Ms. Prachi Tatake, Appellant in AO/957/2023.

Mr. Pradeep J. Thorat, a/w. Ms. Aditi Naikare i/b. Richa V. Singh for Respondent Nos.1 in AO/957/2023 & Appellant in AO/(St.)/31717/23.

Mr. G. C. Singh, for Respondent No.2 in AO/957/23 & AO (St.)/31717/23 & Appellant in AO/995/2023

Ms. Smita V. Tondwalkar, for Respondent No.3-BMC.

Sub-Engineer Rahul Pandit (BP) NS Ward present.

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CORAM : SANDEEP V. MARNE, J.

DATED : 13 DECEMBER 2023.

P.C. :

After hearing Appeal for some time, it appears that for the purpose of effective determination of issues involved in the present Appeal, the exact location of land bearing City Survey No.227/1 is required to be ascertained. It is the contention of Appellants in Appeal No.957 of 2022

(Original Plaintiffs) that the land bearing CTS No.227/1 is utilized by the developers for the purpose of sanctioning plans for construction of building bearing Wing No. D and E even though the Plaintiffs are the owners in respect of land bearing CTS No.227/1. As against this it is contention of the developer that the land bearing CTS No.227/1 is not utilized in any manner for the purpose of sanction of plans for construction of buildings of Wing D and E. With a view to ascertain correctness of the rival submissions it would be necessary to direct measurement of the surrounding lands so as to ascertain the exact location of land bearing CTS No.227/1.

2. Accordingly Mr. Thorat, the learned counsel appearing developer would submit that the developer is willing to file an application for measurement to be carried out at the site.

3. Let such application be filed within a period of one week from today. Upon receipt of application, City Survey Officer shall carryout measurement and indicate location of land bearing CTS No.220, 226, 227 and 227/1. Such measurement be carried out in presence of both Plaintiffs as well as the developers. The City Survey Office is requested to carryout measurement as expeditiously as possible preferably within a period of 03 weeks of receipt of Application from developers and issue measurement map immediately thereafter.

4. List the Appeal for further consideration on 22 January 2024. On the next date of hearing both the parties shall place on record the measurement map issued by the City Survey Officer, Boriwali.

SANDEEP V. MARNE, J.