

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

**NOTICE OF MOTION NO. 1821 OF 2018
IN
SUIT NO. 147 OF 2017
WITH
NOTICE OF MOTION NO. 851 OF 2017
IN
SUIT NO. 147 OF 2017
WITH
INTERIM APPLICATION NO. 1777 OF 2020
IN
SUIT NO. 147 OF 2017
WITH
NOTICE OF MOTION NO. 1080 OF 2019
IN
SUIT NO. 147 OF 2017
WITH
NOTICE OF MOTION NO. 722 OF 2018
IN
SUIT NO. 147 OF 2017
WITH
INTERIM APPLICATION (LODGING) NO. 19364 OF 2022
IN
COURT RECEIVER'S REPORT NO. 61 OF 2022**

Mrs.Lourdes Veronica Baptista
Through : Power of Attorney :
Mr.Basil Robert Baptista ...Plaintiff

vs.

M/s. Crescent Builders and
Developers and Ors. ...Respondents

**WITH
INTERIM APPLICATION (LODGING) NO. 29452 OF 2022
IN
SUIT NO. 147 OF 2017**

Swift Developers and Ors. ...Applicants

vs.

Mrs.Lourdes Veronica Baptista
Through : Power of Attorney :
Mr.Basil Robert Baptista and Ors.

...Respondents

Mr.Shanay Shah i/b. Ms.Dione Baptista – Advocate for Plaintiff.
Mr.Anushak Daver a/w Mr.Nirav Shah, Mr.Mitul Shah, Mr.Faizan Shaikh i/b. Mr.Shreyas K. Vyas–Advocates for Defendant Nos.1 an 2.
Mr.Yash Tiwari and Mr.Ankit Tiwari – Advocate for Defendant Nos.3 to 5.
Mr.Shyam Kapadia, Mr.Mustafa Bohra, Mr.Nikhilesh Koundinya i/b. Solomoin and Company – Advocates for Defendant No.8.
Mr.Himanshu Takke–AGP for State of Maharashtra–Defendant No.9.
Ms.Sheetal Metkari a/w Ms.K.H.Mastakar – Advocate for BMC – Defendant No.10.
Mr.S.Shamim i/b. S. Shamim and Company – Advocate for Defendant Nos.11 and 12 in Suit No.147 of 2017 and for Applicant in NMS No.1821 of 2018.
Mr.S.K.Dhekale – Court Receiver present.

CORAM : S. M. MODAK, J.

DATED : 1ST SEPTEMBER 2023

P. C. :

1. Heard learned Advocate for the respective parties.
2. There are several Interim Applications filed either by the Plaintiff or by the Defendants. All the learned Advocates apprised me about those Applications. My attention is invited to an order dated 4th August, 2017 passed in Notice of Motion No. 851 of 2017.
3. The reliefs sought in the Interim Application consists of handing over possession, praying for cancellation of permission

granted by the Corporation (it is by the Plaintiff) and objection about maintainability of the Suit on account of limitation taken by defendants.

4. In the order dated 4th August, 2017, already the issue of limitation was framed as a preliminary issue. Yet, the parties have to file respective affidavits and compilation of documents.

5. Recently, there is an Interim Application (Lodging) No. 24448 of 2023 filed by the Defendant Nos.1 and 2 on the ground of limitation only. Yet, the service has to be effected on the other sides. Let it be done.

6. Learned Advocate for the Plaintiffs submitted that in view of the recent judgment of Hon'ble Supreme Court, the issue of limitation cannot be treated as a preliminary issue but it needs to be decided along with the main Suit.

7. Everyone of them wants their Applications to be decided first. Let Plaintiff to file a chart giving description of all these Interim Applications and the reliefs. Thereafter, Court will take appropriate decision. Till that time, let pleadings be completed.

8. The Plaintiff is granted liberty to serve newly added Defendant No.6 on his e-mail address as the earlier attempts to serve him in regular manner has failed.

9. The additional affidavit filed by the Corporation in Notice of Motion No.722 of 2019 is taken on record.
10. Stand over to **3rd October, 2023.**

[S. M. MODAK, J.]