

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

SUIT NO. 1412 OF 2008

Villayati Ram Mittal .. Plaintiff
Vs.
Shree Makandeya Padmashal
Co-operative Housing Society Ltd. .. Defendant

Ms.Megha Keluskar a/w. Mr.S.K. Chaurasia i/b SKC Legal for plaintiff.

Mr.Dilip Bagwe for defendant.

**CORAM : K.R.SHRIRAM, J.
DATED : 21ST OCTOBER, 2015**

P.C.

1 The following issues arise in suit :

1. Whether the plaintiff proves that it is registered partnership firm and hence entitled to maintain this action?
2. Whether the plaintiff proves that they have duly served notice as required under Section 164 of the Maharashtra Co-operative Societies Act, 1960?
3. Whether the plaintiff proves that they have obtained the requisite sanction under Section 61 of the Maharashtra Co-operative Societies Act, 1960?
4. Whether the plaintiff proves that the defendant-society had executed the tripartite agreement dated 5.08.1994 and was bound by it.
5. Whether the plaintiff proves that the agreement dated 21.02.1995 being Exhibit-C to the plaint is binding upon the defendants?
6. Whether the plaintiff proves that M/s. Shrimati Trading & Finance

Pvt. Ltd. was put in quiet and vacant possession of the suit plots of land by virtue of the alleged agreement dated 21/2/1995?

7. Whether the plaintiff proves that the plaintiff had entered into a development agreement dated 23.07.1997 with one Atul Realty Private Limited and the said agreement is binding upon the defendant?
8. If the answer to issue no.7 is in the affirmative, whether the plaintiff proves that the defendant had authorized the plaintiff to submit proposals for 35 new members and the plaintiff had acquired rights for inducting 46 new members in place of 35 outgoing members?
9. If the answer to issue no.8 is in the affirmative, whether the plaintiff is entitled to an order against the defendant restraining the defendant from interfering in any manner, the enjoyment and possession of the respective flats by the said 46 new members and induct the said new members as members of the defendant-society?
10. If the answer to issue no.8 is in the affirmative, whether the plaintiff is entitled to an order against the defendants restraining the defendants from interfering in any manner the enjoyment and possession of the respective flats by the said 46 new members and induct the said new members as members of the defendant-society?
11. Whether the plaintiff proves that the plaintiff is entitled to a decree against the defendants in the sum of Rs.17.30 crores together with interest thereon at 21% p.a. from the date of the filing of the suit until payment/realization?
12. Whether the plaintiff proves that they are entitled to a decree against the defendants in the sum of Rs.99,534/- per day as charges and compensation from the date of the suit till the defendant inducts the

46 members as mentioned in issue no.8?

13.What decree? What order?

2 The plaintiff to file its list of witnesses, affidavit in lieu of examination in chief of their first witness together with compilation of documents and serve a copy thereof upon the defendants on or before 2.12.2015.

3 Stand over to 14.12.2015 for marking of documents on which date the plaintiff's first witness shall remain present in Court.

(K.R. SHRIRAM, J.)