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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY  
ORDINARY ORIGINAL CIVIL JURISDICTION  
IN ITS COMMERCIAL DIVISION  
NOTICE OF MOTION (L) NO. 82 OF 2016  
IN  
COMMERCIAL SUIT NO. 206 OF 2016**

Rekha S Jain & Anr ...Plaintiffs  
*Versus*  
Skyline Construction Co ...Defendants

**WITH  
NOTICE OF MOTION (L) NO. 81 OF 2016  
IN  
COMMERCIAL SUIT (L) NO. 123 OF 2016**

Ansuya Prasad Purohit & Anr ...Plaintiffs  
*Versus*  
Skyline Construction Co ...Defendants

**WITH  
NOTICE OF MOTION (L) NO. 83 OF 2016  
IN  
COMMERCIAL SUIT (L) NO. 124 OF 2016**

Shanti Bhooshan Singh & Anita Singh ...Plaintiffs  
*Versus*  
Skyline Construction Co ...Defendants

**WITH**

**NOTICE OF MOTION (L) NO. 84 OF 2016**

**IN**

**COMMERCIAL SUIT (L) NO. 125 OF 2016**

Pratibha Ladha & Anr ...Plaintiffs  
*Versus*  
Skyline Construction Co ...Defendants

**WITH**

**NOTICE OF MOTION (L) NO. 85 OF 2016**

**IN**

**COMMERCIAL SUIT (L) NO. 126 OF 2016**

Jignesh Manhar Rathod & Shreya Nitir Shah ...Plaintiffs  
*Versus*  
Skyline Construction Co ...Defendants

**WITH**

**NOTICE OF MOTION (L) NO. 94 OF 2016**

**IN**

**COMMERCIAL SUIT (L) NO. 134 OF 2016**

Rajeev R Chaudhari & Anr ...Plaintiffs  
*Versus*  
Skyline Construction Co ...Defendants

**WITH**

**NOTICE OF MOTION (L) NO. 102 OF 2016**

**IN**

**COMMERCIAL SUIT (L) NO. 142 OF 2016**

Prachi Bhobe & Anr ...Plaintiffs

*Versus*  
Skyline Construction Co ...Defendants

**WITH**  
**NOTICE OF MOTION (L) NO. 101 OF 2016**  
**IN**  
**COMMERCIAL SUIT (L) NO. 140 OF 2016**

Chandralata H Asarpota & Hemchand T ...Plaintiffs  
Asarpota

*Versus*  
Skyline Construction Co ...Defendants

**WITH**  
**NOTICE OF MOTION (L) NO. 93 OF 2016**  
**IN**  
**COMMERCIAL SUIT (L) NO. 132 OF 2016**

Anjali Ajit Rao & Ajit Vishwanath Rao ...Plaintiffs  
*Versus*

Skyline Construction Co ...Defendants

**WITH**  
**NOTICE OF MOTION (L) NO. 108 OF 2016**  
**IN**  
**COMMERCIAL SUIT (L) NO. 152 OF 2016**

Bhaskar Verma & Shivani Verma ...Plaintiff  
*Versus*

Skyline Construction Co ...Defendants

**WITH**  
**NOTICE OF MOTION (L) NO. 107 OF 2016**

**IN**

**COMMERCIAL SUIT (L) NO. 151 OF 2016**

Mukesh Lalu Deepchandani & Pooja  
Deepchandani  
*Versus*  
Skyline Construction Co

...Plaintiffs  
...Defendants

**WITH**

**NOTICE OF MOTION (L) NO. 144 OF 2016**

**IN**

**COMMERCIAL SUIT (L) NO. 201 OF 2016**

Bakir Hussain Zakir Hussain Shaikh & Reena  
Nim S  
*Versus*  
Skyline Construction Co

...Plaintiffs  
...Defendants

**WITH**

**NOTICE OF MOTION (L) NO. 145 OF 2016**

**IN**

**COMMERCIAL SUIT (L) NO. 202 OF 2016**

Mehul A Gor & Amishim Gor  
*Versus*  
Skyline Construction Co

...Plaintiffs  
...Defendants

**AND**

**NOTICE OF MOTION (L) NO. 183 OF 2016**

**IN**

**COMMERCIAL SUIT (L) NO. 240 OF 2016**

Pankaj Gajanan Sabnis & Anr

...Plaintiffs

*Versus*  
East & West Builders ...Defendants

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**Mr Tushar Gujjar**, *i/b Solicis Lex, for the Plaintiffs.*  
**Mr Chirag Balsara**, *with Tamsin M, i/b ALJ & Partners, for the Defendants.*

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**CORAM: G.S. PATEL, J**  
**DATED: 3rd February 2017**

**PC:-**

1. On the last occasion there was an extended discussion in Court. Essentially the suggestion was that the flat purchasers would form themselves into an Association. There was a separate concern expressed about the purchasers of flats between floors 25 and 35. This section of the construction requires separate dedicated orders because whether or not this portion can ever be constructed depends on the outcome of the builder's application for fungible FSI.
2. There is a Writ Petition filed by the builder in that regard. This is Writ Petition No. 3018 of 2016. In Court, the discussion related to whether purchasers of flats on these floors, once part of the Association, could be accommodated on the lower floors or would want a refund of their consideration on some appropriate terms.
3. To this end, Mr Balsara for the builder suggested draft minutes of order which I have taken on file. The understanding then

was that the present Plaintiffs would attempt to bring together all the flat purchasers so that a uniform order could be passed dealing with the flat purchasers as a class or in separate classes. Further, there was a discussion about a possible application under Order I Rule 8 to give effect to such scheme, as this, it was commonly agreed, would be in the benefit of all flat purchasers.

4. I am informed that through the same Attorneys, a separate Suit has been filed for some other Plaintiffs. This is Commercial Suit (L) No. 33 of 2017. It was filed in January 2017 but was only moved yesterday. In view of the current sitting assignment that application was made to the Bench headed by Mr Justice SJ Kathawalla.

5. There is no difficulty with this entire group of matters pertaining to the same construction being heard by any Court and certainly it would be in my view the Court presided by the senior of the two Judges that would have precedence.

6. What I am unable to understand, however, is how without mentioning to the Court hearing the later matter that certain orders and directions are being considered by the Court hearing the earlier cases, and drafts have even been tendered, a fresh application could be made like this on substantially similar facts in the name of a different party.

7. I will direct a copy of this order to be placed before Mr Justice SJ Kathawalla and I will also direct the Registry to club these Suits

and all Notices of Motion in it with Commercial Suit (L) No. 33 of 2017 and have those placed before Mr Justice SJ Kathawalla for further orders.

8. Registry to take appropriate directions as regards the transfer of these matters to Mr Justice SJ Kathawalla.

**(G. S. PATEL, J.)**