



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
IN ITS COMMERCIAL DIVISION
ARBITRATION PETITION NO. 559 OF 2017

Mulund Raviraj CHSL. ... Petitioner

Versus

Rupji Constructions and Anr. ... Respondents

ALONG WITH
CHMABER SUMMON NO. 217 OF 2018
WITH
NOTICE OF MOTION NO. 688 OF 2018
WITH
CHAMBER SUMMON NO. 234 OF 2019
WITH
CHAMBER SUMMON NO. 45 OF 2019
WITH
NOTICE OF MOTION NO. 350 OF 2019
WITH
CHAMBER SUMMONS (L) NO. 313 OF 2018

Mr.Anushk Sabnis for the Petitioner.

Mr.Vikhil Dhoka i/b. G.M.Legal for K.Patel and Company.

Ms.A.Wadrewala i/b. VBA Legal for Interveners.

Mr.Amit S. Potnis - Respondent No. 1.

Mr.D.J.Dlal for the Interveners - Mrs. Mahasweta Gannavarapu and Mr.Subbarao Gannavarapu.

Mr.Santosh Dalvi for the Interveners in CHSCD. 217 of 2018.

Mr.O.A. Das for Bank of India.

Mr.Ketan Trivedi - Commissioner, present.

Representative of the Grauer and Weil (I) Limited, present in person.

Mr.Madhukar Rupji along with Mr.Tejal Rupji, present in person.



CORAM : S.J. KATHAWALLA, J.
DATED : 28TH JUNE, 2019
(IN CHAMBERS)

P.C.:

1. Pursuant to the Order passed by this Court dated 20th June, 2019, Mr.Madhukar Rupji and Mr.Tejal Rupji are today brought before this Court from Taloja Prison.
2. As regards Mahul property, Mr.Madhukar Rupji states that he has 50% share in the same and the balance 50% share belongs to his uncle - Kamlakar Rupji. He states that after the demise of his uncle, one Mr.Chetan use to visit him to collect the share of Mr.Kamlakar Rupji in the lease rent received from Grauer and Weil (I) Limited. Mr. Madhukar Rupji states that though Mr.Chetan has alleged that he is the adopted son of Mr.Kamlakar Rupji, he does not admit the claim of Mr.Chetan.
3. Earlier this Court had directed Mr.Chetan to remain present in Court. However, he failed to do so. As a last chance and only by way of indulgence, Mr.Chetan is once again directed to remain present before this Court on 4th July, 2019 at 05.30 p.m. in Chambers. It is clarified that if Mr.Chetan fails to remain present before this Court on that day along with the documents in support of his claim that he is the adopted son of Mr.Kamlakar Rupji, the Court shall proceed on the basis that Mr. Kamlakar Rupji has left no other heir except Mr. Madhukar Rupji and pass appropriate orders more particularly qua the transaction between Mr.Madhukar Rupji and Grauer and Weil (I) Limited pertaining to renewal of lease of the Mahul property.



4. As regards the order passed on the last occasion qua the amount due and payable to the Bank of India, it is today pointed out by Shri Tejal Rupji and the Advocate representing Priyanka Rupji that Flat No. 703, 7th Floor, Subh Ashirwad CHSL, Plot No. 117, Matunga Estates, C.S.No. 116/10, Matunga Division Lane Road No. 5, Hindu Colony, Dadar, Mumbai - 400 014 (the said flat), is provided as security to the Bank of India by Ms.Priyanka Rupji and Mr.Tejal Rupji only qua the home loan obtained by them. The said flat is not provided as security for the loans obtained from the bank by Rupji Construction or Rupji Associates. Therefore, the bank can only appropriate a sum of Rs.58,67,886.56 due and payable by them under the said home loan from the sale proceeds of the flat and not Rs.86,54,655.95 as recorded in the order dated 19th June, 2019.

5. This Court has in its earlier orders repeatedly recorded that the Rupji's agreed to redevelop the property of the Petitioner society on terms and conditions set out in the Development Agreement. Thereafter, the building in which the members of the society were housed was demolished by the Rupji's, who later not only failed to reconstruct the same and allot to the tenants the permanent alternate accommodation as promised, but virtually brought them on the streets by not paying to them even the monthly compensation amount agreed to be paid towards temporary alternate accommodation. The tenants are left roofless since the last five years. This Court therefore, by its order dated 14th December, 2017 restrained the Rupji's from selling, alienating, encumbering, parting with possession and / or creating any third party



rights in respect of any of their movable and immovable properties including the shareholding in any Company or in respect of any plots / flats in the development / redevelopment projects undertaken by them including Flat No. 703 standing in the name of Ms.Priyanka Rupji and Mr.Tejal Rupji. The said Order was passed so that if any amount is realized by sale of any property of Rupji's, some relief can be provided to the tenants of the suit property and their family members who have been roofless since the last five years and also the individuals who have purchased flats under the free sale category by exhausting their savings/by obtaining loans/ by selling their existing assets and paying lacs of rupees to the Rupji's with the hope of getting a roof over their heads.

6. However, since the said flat owned by Ms. Priyanka and Tejal Rupji is secured in favour of the bank of India towards the home loan taken by Ms. Priyanka and Tejal Rupji, this Court by an order dated 20th June, 2019 granted permission to Ms. Priyanka and Tejal Rupji to hand over the possession of the said flat to the Bank of India to enable them to sell the same and appropriate their dues payable by Ms. Priyanka and Tejal Rupji towards the home loan account. In view thereof, the following directions are passed :

(i) The Bank of India shall forthwith sell the said flat and appropriate a sum of Rs.58,67,866.56 towards the home loan account.

(ii) In addition thereto, the Bank shall also appropriate the valuation and publication charges.



(iii) The balance amount shall be deposited by the Bank with the Prothonotary and Senior Master of this Court.

(iv) The Prothonotary and Senior Master shall pay the arrears of maintenance to the Society.

(v) From the amount remaining with the Prothonotary and Senior Master, he shall pay 50% of the same to Ms. Priyanka Rupji.

(vi) Thereafter, the Prothonotary and Senior Master shall also pay the amount due to Shri Shekhar Vitthal Kamtekar and his wife as directed by this Court.

(vii) The taxes payable if any including the capital gains tax shall be paid by the respective parties i.e. Tejal and Priyanka Rupji as per the proportionate sale consideration received by them.

7. Ms. Priyanka Rupji states that Tejal Rupji has failed to pay her and the children the maintenance ordered by the Family Court, Bandra. She is therefore, entitled to attach the share of Tejal Rupji in the consideration received in respect of the said flat. However, at present she is not proceeding to do so only because the Court intends to use the balance amount to assist the Plaintiffs in the above proceedings who have been rendered roofless and virtually brought on the streets by the Rupji's.

8. Stand over to 4th July, 2019 at 5.30 p.m. On that day, the Superintendent of Prison, Taloja shall arrange to produce Mr.Madhurkar Rupji and Mr.Tejal Madhukar Rupji, before this Court at 05.00 p.m. in Chambers. The Superintendent of Prison,



Taloja, shall ensure that Mr.Madhurkar Rupji and Mr.Tejal Madhukar Rupji along with escort shall leave Taloja Prison on 4th July, 2019 by 12.00 noon so that no delay will be caused in bringing them to this Court by 05.00 p.m.

9. Stand over to 4th July, 2019 at 05.30 p.m in Chambers.

(S.J.KATHAWALLA, J.)