

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

NOTICE OF MOTION (L) NO.3094 OF 2018

IN

SUIT (L) NO.1710 OF 2018

Murtuza Manasawala and Ors.

....Applicants/Plaintiffs

Vs.

Iqbal Singh Matharu and Ors.

....Defendants

Mr. Naushad Engineer a/w. Mr. Karl Tamboly, Ms. Deepa Bisht and Ms. Spardha Sharmal I/b. Mr. Tushar A. Goradia for applicants/plaintiffs.
Mr. Cyrus Ardeshir a/w. Mr. Sujit Lahoti I/b. Mr. Akshay Kamble for defendant no.1.

Mr. R.Y. Sirsikar a/w. Mr. Dadasaheb Shingade for defendant nos.2 and 3.

CORAM : K.R.SHRIRAM, J.

DATE : 17th DECEMBER 2018

P.C.:

1 Mr. Ardeshir, counsel for defendant no.1, without prejudice to the rights and contentions of defendant no.1, suggests and Mr. Engineer is agreeable to the suggestion, that each of the flat be measured by an Architect to ascertain the area of each flat. Mr. Ardeshir states that defendant no.1 shall pay the fees of the Architect at the first instance. Mr. Ardeshir states that if there is a mismatch in the area, defendant no.1 shall take all steps and make an application for regularisation of deficit area if any. Mr. Ardeshir states that three weeks time be required to apply from the date of receipt of the report.

2 Defendant no.3 is directed not to implement the order dated 13th November 2018 until the next date.

3 M/s. Parelkar and Dailus, having their office at Meadows House, 4th Floor, 39, Nagindas Master Road, Fort, Mumbai – 400 023 (telephone no.22654107/24445163) is appointed as Architect to visit each of the flat, ascertain the area as per the sanctioned plan and actual made available and consider it with the agreement as well. The Architect shall also check and opine whether the area available is in accordance with the agreement entered into with plaintiffs and the sanctioned plan. The Architect to complete the procedure and submit a report by 15th January 2019.

4 Mr. Ardeshir states that the invoice of the Architect will be paid within three days of receiving the same. Statement accepted. Mr. Ardeshir further states that if the Architect seeks advance payment, the advance will also be paid within three days of receiving such a request.

5 Architect to provide copy of the report to plaintiffs and defendant no.1.

6 Stand over to 25th January 2019 for directions.

(K.R. SHRIRAM, J.)