

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

**NOTICE OF MOTION NO. 157 OF 2014
WITH
NOTICE OF MOTION NO. 1223 OF 2014
IN
SUIT NO. 3611 OF 2002**

Rang Sharda Hotels Pvt. Ltd. .. Applicant

In the matter between :

Rang Sharda Hotels Pvt. Ltd. .. Plaintiff

Vs.

K.G.Kapadia (HUF) & Ors. .. Defendants

And

Municipal Corporation of
Greater Mumbai .. Respondent

Mr.Prakash Lad a/w. Ms.Tanaz P. & Ms. Pavitra Pillay i/b M/s. Kanga &
Co. for plaintiff.

Mr.Ramachandran N. i/b Narayanan & Narayanan for defendant nos.1 to 5.

**CORAM : K.R.SHRIRAM, J.
DATED : 14TH OCTOBER, 2015**

P.C.

NOTICE OF MOTION NO. 157 OF 2014

1 This notice of motion has been taken out by the plaintiff for appointment of Receiver under Order 40 Rule 1 of Code of Civil Procedure, 1908 and with power to collect the entire amount of outstanding towards BMC property tax and balance outgoings in respect of the suit premises, including ground rent, N.A. tax, water charges, common electricity charges etc. from the defendants and also for direction or an order against

respondent restraining the respondent by an order and injunction in any manner, acting upon and/or in furtherance of the Warrant of Attachment dated 7.08.2012 and the notice dated 22.11.2012.

2 The plaintiff has also filed similar suits against various other defendants viz. suit No.3681 of 2002, 3566 of 2002 and 3610 of 2002. In these suits also, the plaintiff had taken out similar notices of motion and all these notices of motion came to be disposed of pursuant to an order dated 5.08.2015 passed by this Court. (Coram : Mrs.Roshan Dalvi, J.). The Court was pleased to grant relief restraining the respondent from acting upon the notices issued by the respondent. Paragraph 2 of the said order reads as under :

2. The BMC shall not auction the suit building for nonpayment of property taxes until the BMC issues a fresh notice specifically showing the nonpayment of property taxes separately by the plaintiff and separately by the defendant.

2 The counsel for the plaintiff submits that present notice of motion also could be disposed on the same basis. The counsel appearing for defendant nos.1 to 5 has no objection. Nobody is present for the respondent. The counsel for the plaintiff confirms that the respondent has been served.

3 In the circumstances, the notice of motion stands disposed of with the following order :

(i) The respondent-Municipal Corporation or Greater Mumbai shall not auction the suit building for nonpayment of property tax until it issues a fresh notice specifying therein the amount of property taxes not paid by the defendant nos.1 to 4.

4 All parties to act on an ordinary copy of this order duly authenticated by the Associate of the Court.

NOTICE OF MOTION NO. 1223 OF 2014

5 The notice of motion to be listed for hearing on 28.10.2015.

(K.R. SHRIRAM, J.)