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

**NOTICE OF MOTION (L) NO. 1120 OF 2013
IN
SUIT NO. 548 OF 2013**

Nadeem Majid Oomerbhoy ...Plaintiff
Vs.
Rashid Sattar oomerbhoy & Ors. ...Defendants

Ms. Sonal a/w Jariwala i/b. Thakore Jariwala & Assoc.
for the Plaintiff

Mr. Rahul R. Singh for Defendant Nos. 2 to 4 & 6

Ms. Rujuta Patil i/b. Nigandh Shah & Himayatullah
for Defendant Nos. 8 & 9.

Mr. Astad Randeria i/b. Desai Desai Carrimjee & Mulla for
Defendant No.1

CORAM : MRS. ROSHAN DALVI, J.

DATED : 30TH JULY, 2015

P.C. :

1. An order in respect of various partnership properties including the suit property between the plaintiff and defendant Nos. 1 to 6 as partners has been passed in a related suit restraining the defendants from transferring or otherwise alienating the partnership properties.
2. So far as the suit property is concerned defendant Nos. 1 to 6 are stated to have assigned their share in suit property as an actionable claim or choses in action to defendant Nos. 8 and 9. Defendant Nos. 8 & 9 claim that the rights of

defendant Nos. 1 to 6 in the suit property have vested in them. However in the last sentence of para 11 of the affidavit -in-reply of defendant No.9 it is stated that defendant No.9 is not in possession of the suit property as falsely alleged by the plaintiff. Defendant No.8 is not a party to the said assignment. Defendant No.8 has stated in para 13 of its affidavit-in-reply also that it is not a party to the said assignment.

3. Consequently defendant No.9 cannot transfer, alienate or create any third party rights in the said property pending the suit just as much as defendant Nos. 1 to 6 cannot.
4. Hence all the defendants shall not create any third party rights by any transfer, sale, alienation, encumbrance or otherwise parting with the possession or any part of the suit property pending the suit.
5. Notice of Motion is disposed off accordingly.

(ROSHAN DALVI, J.)