

amendment was allowed in the presence of one Mr. Rajendrakumar Subhashchandra Ghanekar, who is the son of the defendant. Essentially, it seems that the dispute arises out of claims made by two siblings pertaining to the suit flat. The order dated 17/04/2015 sets out in detail the sequence of events leading to the filing of the Suit. The Court then granted ad-interim relief in terms of prayer clauses (a) and (b). The order was to continue till 26/06/2015 and a statement came to be recorded on behalf of the plaintiff that the plaintiff also will herself not sell, alienate, part with possession or create third party rights in respect of the suit flat and garage.

3. Although the affidavit in reply was to be filed on or before 11/06/2015, no affidavit has been filed since. The Motion came to be listed on 24/06/2015 when the defendant was absent and the matter was adjourned to 26/06/2015. On 26/06/2015 also defendant was absent and in view of the fact that no affidavit in reply had been filed, despite a specific direction in the order dated 17/04/2015, time to file the affidavit in reply was extended upto 10/07/2015 and the Motion came to be listed for final hearing on 24/08/2015 while continuing ad-interim order dated 17/04/2015 till disposal of the Notice of Motion.

4. Thereafter the Motion was listed on 30/09/2015 when once again the defendant did not appear nor the defendant entered the appearance. In view of the fact that the defendant was not

represented, the Court directed the plaintiff to serve a fresh notice and file affidavit of service. Accordingly, the Counsel appearing for the plaintiff states that a fresh notice dated 03/10/2015 was served upon the defendant by registered post A.D. enclosing a copy of the order dated 30/09/2015. From the affidavit of service, it seems that it has been filed in the Registry the copy of which has been tendered across the Bar. It appears that the notice intimating the defendant of the hearing today was transmitted through registered post A.D and was duly received by the defendant who has signed on the acknowledgment card, the copy of which is annexed to the affidavit of service. However, today, when the matter is called out, none appears on behalf of the defendant. In this view of the matter, I proceeded to hear the Notice of Motion and consider the facts as narrated in the plaint and re-produced in the order passed on 17/04/2015. As there has been no affidavit in reply, I proceeded on the basis that the contentions in the plaint have not been disputed. In view that there is no opposition to the present Notice of Motion, interest of justice will be served by confirming the ad-interim relief granted on 17/04/2015.

5. In the circumstances, I pass the following order.

- (i) Notice of Motion is made absolute in terms of prayer clauses (a) & (b).

- (ii) There will be no order as to costs.
- (iii) The learned Counsel appearing for the plaintiff is directed to forthwith intimate the defendant of the order passed today and serve authenticated copy of this order as well.
- (iv) In the view of the statement made and as recorded in the order dated 17/04/2015, the plaintiff also will herself not sell, alienate, part with possession or create third party rights in respect of the suit flat and garage.

(A.K.MENON, J.)