

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

NOTICE OF MOTION NO.1344 OF 2010

IN

SUIT NO. 1243 OF 2010

Harish Ravji Chheda

... Plaintiff

Versus

Jayram Kashinath Bhandari & others

... Defendants

.....

Mr. Vasim Shaikh i/b M/s. Pravin Mehta & Mithi & Co. for the plaintiff.

Ms. K.G. Poojary for defendant Nos.1 to 8.

Mr. Madhav J. Jamdar for defendant Nos.11 to 16.

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CORAM : A.K. MENON, J.

DATE : AUGUST 27, 2015.

P.C.:

The present Notice of Motion is taken out in the year 2010. Learned counsel for the plaintiff seeks liberty to withdraw the present Notice of Motion and seeks to file a fresh Notice of Motion since the suit property is incorrectly mentioned in the plaint as well as in the Notice of Motion.

2. In the meanwhile, learned counsel for defendant No.1 states that defendant No.1 has expired on 27 September 2012 but she could not inform the plaintiff earlier as she was unaware of this fact. She will now provide names of the heirs to the Plaintiff's Advocate.

3. Learned Counsel for the Plaintiff states that he will take out an appropriate application for amendment of the plaint and, thereafter, take out a fresh Notice of Motion. The plaintiff had applied for ad-interim relief on or about 7 May 2010. However, the reliefs sought in the Notice of Motion were not granted and were to be considered at the time of final hearing. Accordingly, the following order is passed:

(i) The Notice of Motion is allowed to be withdrawn with liberty to take out a fresh Notice of Motion after amendments to the Plaint.

(ii) It is made clear that if a fresh Notice of Motion is taken out, the plaintiff will not be entitled to seek the same relief by way of ad-interim relief.

(iii) Advocate for defendant No.1 to furnish names of the heirs of defendant No.1 within a period of two weeks from today.

(iv) Application for amendment to be taken out within one week of receiving the names of the heirs.

(A.K. MENON, J.)