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

**NOTICE OF MOTION NO. 1842 OF 2010
IN
SUIT NO. 1500 OF 2010**

Burzor Rustom Joshi & Ors.

...Plaintiffs

VS

Zarir Rustom Joshi & Ors.

...Defendants

.....
Mr Dinyar Madon Sr. Advocate i/b M/s Prakash & Co. for the Plaintiffs

Mr Vivek Kantawala a/w Amay Patil i/b Vivekkantawala & Co. for the Defendants.
.....

CORAM : S.C. GUPTE, J.

DECEMBER 21, 2015

P.C. :

This Notice of Motion seeks appointment of a Court Receiver of the suit property. The Plaintiffs claim to be owners of the suit property as trustees of a public charitable trust by the name of Seth Merwanjee Framjee Panday Charitable Trust ("the trust") and have filed this suit on the basis of their title for recovery of the suit property. Defendant No.1 claims to be occupying the suit property for his residence for a long period. It is the case of Defendant No.1 that his parents were residing as trustees of the trust and that after their deaths respectively in the years 1994 and 1998, Defendant No.1 has continued to reside in the premises. In the peculiar facts and circumstances of the case, learned Counsel for the Defendants has no objection to the Court Receiver being appointed of the suit property, pending hearing and final disposal of the suit, provided the possession of the Defendants is not disputed in any manner. Accordingly, the Court Receiver, High Court, Bombay, is appointed as a Receiver of the suit property described in Exh A to the plaint. The Receiver shall only be in a symbolic possession of the property and shall not take physical possession thereof. The Receiver shall not display his board on the suit premises. Pending

hearing and final disposal of the suit, there shall also be an injunction restraining Defendants from alienating, encumbering or parting with possession of the suit premises or creating any third party rights therein or in any part thereof. The Notice of Motion is disposed of accordingly.

2 On the joint request of the parties, the suit is expedited. The suit to come up for framing of issues on 21 January 2016. The parties to file their respective affidavits of documents together with compilations by the next date.

(S.C.GUPTE J.)

CERTIFICATE

Certified to be true and correct copy of the original signed
Judgment/ Order.