

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

NOTICE OF MOTION NO. 1253 OF 2015
IN
SUIT NO. 3299 OF 2003

Mrs. Malamji Shamsunisa Nijamuddin .. Applicant
(Deft. No. 26)

IN THE MATTER OF

Haji Ismail Haji Habib Musafirkhana Trust & Ors. .. Plaintiffs
Vs.
Mr. Yusuf Saleh Mohammed Jafrani & Ors. .. Defendants
And
The Court Receiver, High Court, Bombay .. Respondent

WITH
NOTICE OF MOTION NO. 1254 OF 2015
IN
SUIT NO. 3299 OF 2003
WITH
NOTICE OF MOTION NO. 1255 OF 2015
IN
SUIT NO. 3299 OF 2003
WITH
NOTICE OF MOTION NO. 1257 OF 2015
IN
SUIT NO. 3299 OF 2003
WITH
NOTICE OF MOTION (L) NO. 2327 OF 2015
IN
SUIT NO. 3299 OF 2003
(PAUPER PETITION NO. 11/1997)

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Ms. J. A. Sarkhot i/b. Mr. R. V. Govilkar, for plaintiff Nos. 1 to 6.
Mr. Nanki Grewal and Ms. Yogni Borade i/b. M/s. Wadia Ghandy &
Co. for plaintiff No. 7.
Mr. Ivor Peter D'Cruz, for applicants and for Defendant Nos. 8, 11,

19, 26, 32 to 34, 7A, 7C to 7E and 35 in Suit /3299/2003.

Mr. Shoeb Zakaria Noorani plaintiff No. 4 and constituted Attorney of plaintiff Nos. 1 to 3 and 5 present in Court.

Mrs. Malamji Shamsunisa Nijamuddin defendant no. 26 present.

Mrs. Naseera Begum defendant no. 19 present.

Mrs. Fatima Bee defendant No. 34 present.

Mr. Siddiqui Mohd. Tariq Mohd. Ghalib defendant no. 32 present.

Mr. Nadeem Shaikh defendant no. 35 present.

CORAM : A. K. MENON, J.

DATE : AUGUST 28, 2015.

P.C.:

The advocates for the parties and for plaintiff Nos. 1 to 7 and the defendants have tendered consent minutes of the order in each of the above notices of motion. The minutes of the order in each notice of motion is marked as **Exhibit- "X"** for identification. Mr. Rane representative of the Court Receiver is present in the Court. All these notices of motion seek possession of different rooms in the suit premises. Parties before me today are now agreed that the plaintiffs shall make payments to each of these defendants Nos. 19, 26, 32, 34 and 35, who would then be handing over possession of rooms of the suit premises as follows to the Court Receiver against receipt of entire payment mentioned in clause 1 of each of these consent minutes of the order.

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|------|---------------------------------|-------------|
| i) | Defendant No. 19 will hand over | Room No. 18 |
| ii) | Defendant No. 26 will hand over | Room No. 29 |
| iii) | Defendant No. 32 will hand over | Room No. 37 |

- iv) Defendant No. 34 will hand over 1st Floor passage
(part 2nd Passage)
- v) Defendant No. 35 will hand over 1st Floor passage
(part 1st passage)

The learned advocate for the plaintiff submitted that all necessary sanctions required under the organizational documents of the plaintiff have been obtained and no further authorizations are required or necessary in order to give effect to this settlement.

2. The aforesaid defendants are present in court and the learned Advocate for the defendants has read over and explained the contents of the Minutes signed by the respective defendants and by the plaintiffs representative. They all have confirmed that the contents are correct and confirmed execution of the minutes. The learned counsel for plaintiff 1 to 6 and plaintiff no. 7 state that upon the aforesaid defendants handing over the premises referred to above to the Court Receiver and receiving the diverse amounts, they have no claim against these defendants and accordingly counsel for the plaintiff Nos. 1 to 6 and plaintiff No. 7 seek deletion of the defendant Nos. 19, 26, 32, 34 and 35 from the array of defendants. The amendment of the plaint and proceeding to be carried out within a period of 2 weeks from today.

3. In the circumstances the Notices of Motion stand disposed of in the following terms.

i) Notices of Motion Nos. 1253/2015, 1254/2015, 1255/2015, 1257/2015 and Notices of Motion (L) No. 2327/2015 all in Suit No. 3299 of 2003 are disposed of in terms of the separate minutes of the order dated 28.08.2015 and marked as “X” for identification.

ii) The Court Receiver shall hand over possession of the room nos. 18, 29, 37, 1st floor passage (part 2nd passage) and first floor passage (part first passage and as described in the signed Minutes to the plaintiff only against all payment of all arrears costs and charges outstanding under the agency agreements in respect of the specific rooms passage areas. It is clarified that the Court Receiver shall continue receiver of the entire property and shall hand over possession only of these rooms spaces specified above.

iii) Parties to act on an authenticated copy of this order.

iv) There will be no order as to costs.

(A. K. MENON, J.)