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

NOTICE OF MOTION NO.2449 OF 2012
IN
SUIT NO.2486 OF 2012

A. H. Mistry & Co. ..Applicant
In the matter between
A. H. Mistry & Co. ..Plaintiff
-*Versus*-
Life Insurance Corporation of India
& Ors. ..Respondents

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Mr. Cyrus Ardeshir a/w Ms. Priya Thakkar i/b. Malvi Ranchhoddas & Co. for the Applicant.
Mr. S. K. Nair i/b. M/s. S. K. Nair & Co. for Respondent No.1.

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CORAM : A. K. MENON, J.

DATE : 24th JULY, 2015.

P.C.:

This Notice of Motion is taken out by the applicant seeking the following reliefs:-

> "that pending the hearing and final disposal of this Suit this Court be pleased to issue an order and injunction restraining defendant no.1 and its officers, agents and/or any person(s) claiming through or under it from in any manner defeating with, disposing off, alienating, encumbering and/or creating any third party

> rights or parting with possession of the Suit property described in Exhibit 'A' to the Plaint or any part or portion thereof in any manner whatsoever, save and except, in performance of the said Memorandum of Agreement dated March 11, 1978 being Exhibit 'B' to the Plaint."

2] The suit is seeking specific performance of the Memorandum of Agreement dated 11th March, 1978 under which the applicant is entitled to claim conveyance of suit property which admittedly belongs to respondent no.1- Life Insurance Corporation of India. In reply to the notice of motion dated 16th March, 2013, one Mr. Ashok R. Chanekar has in his affidavit contended that the Government of India, Ministry of Finance, Department of Economic Affairs has issued a direction dated 16th May, 1981 to respondent no.1, contents of which read as follows:-

> "Keeping in view the appreciation of land and buildings, especially in metropolitan cities, the Government has decided that the Life Insurance Corporation of India should not dispose of any such assets without prior clearance from Government. This will enable Government to retain such assets surplus to the requirements of the Corporation for other public use. You are requested to bring this to the notice of your subordinate formations. Receipt of this letter may please be acknowledged."

3] In view of the express prohibition against disposing of any assets of the Corporation without prior clearance from the Central Government there cannot be any apprehension in the minds of the applicant that the suit property is likely to be disposed of or alienated. In view of the aforesaid fact, the following order will sufficiently protect the rights of the parties:-

(a) The respondent no.1-Life Insurance Corporation of India shall give the plaintiff three weeks clear notice in writing, in the event the Central Government dilutes or withdraws the direction dated 16th May, 1981 or if the Central Government otherwise permits the Life Insurance Corporation of India to dispose of its assets. Such notice in writing shall be addressed to the plaintiff with a copy to the Advocates on record in this Suit. Upon such notice being received, the applicant is at liberty to move the Court for appropriate reliefs.

(b) Notice of motion is accordingly disposed of.

(c) No orders as to costs.

(A. K. MENON, J.)

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