

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

NOTICE OF MOTION NO.1809 OF 2015
ALONGWITH
REVIEW PETITION (L) NO.58 OF 2015
IN
CHAMBER SUMMONS NO.840 OF 2015
IN
SUIT NO.2505 OF 2010

Santoshkumar Babulal Agarwal ... Petitioner /
Ori. Plaintiff

Vs.

Prakash Chandra Sharma & 30 Ors. ... Respondents

Mr. Madhav Jamdar, Adv. a/w. Mr. Kapil Gor, Adv. for petitioner.
Mr. Sanjay Kothari, Adv. a/w. S John, Adv. i/b. M/s. M P Sawala &
Co. for respondent No.6.

CORAM : MRS. ROSHAN DALVI, J.

DATE : 30th October, 2015.

P.C. :

1. The Review Petition is moved on the premise that the suit which was observed to be for specific performance is not only of specific performance but also of declaration.

2. A reading of the prayers in the plaint show that the suit is indeed for specific performance as the main relief. The other reliefs are incidental and ancillary. They cannot be granted if specific performance is refused. Hence the impugned order does not require any modification. The plaintiff shall not be entitled to amend plaint. The plaintiff may tender any oral or documentary evidence in the suit in support of the pleadings for his relief of specific performance and other ancillary reliefs. Review Petition is disposed of.

3. Notice of Motion taken out for condonation of delay is allowed.

(ROSHAN DALVI, J.)