

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

**NOTICE OF MOTION NO. 13 OF 2010
WITH
NOTICE OF MOTION NO. 1094 OF 2010
WITH
NOTICE OF MOTION NO. 1769 OF 2011
WITH
NOTICE OF MOTION (LODG.) NO. 904 OF 2016
IN
SUIT NO. 3 OF 2010**

Mumtaz Daughter of Riyazuddin and Wife of
Suleman Khan & Anr. .. Plaintiffs

Vs.

Jamaluddin Riyazuddin Shaikh & Ors. .. Defendants

Mr. Shreepad Murthy i/b Nisha Mukesh Mehra for plaintiffs.

Mr. Mukesh Vasi, senior advocate a/w. Mr. S.M. Sharma and Ms. Panthi Desai
i/b M/s. M.P. Vashi & Associates for defendants.

CORAM : K.R. SHRIRAM, J.

DATE : 14TH JULY, 2016

P.C.

NOTICE OF MOTION NO. 1769 OF 2011

1 The counsel for the plaintiffs, on instructions, states that the relief sought in this notice of motion be granted subject to the defendants depositing with the Prothonotary and Senior Master, High Court, Bombay, any license fee or compensation that they would get when the premises admeasuring 1,000 sq.ft on the ground floor and the 1st floor premises admeasuring 2,025 sq. ft. of the building 'Ruby House' is let out to a third

party. Hence, the following order is passed :

(a) The defendants are permitted to take back from State Bank of India, the premises admeasuring 1,000 sq.ft on the ground floor and the premises admeasuring 2,025 sq. ft. on the 1st floor;

(b) The defendants are permitted to allow the State Bank of India to have two ATMs in a part of the ground floor premises leased out to State Bank of India.

(c) If either of the ground floor premises of 1,000 sq.ft. and/or the 1st floor premises admeasuring 2,015 sq.ft. is given on Leave and License basis to any third party, either wholly or in part, the defendants to provide a copy of the registered Agreement to the plaintiffs within two weeks from the registration and deposit with the Prothonotary & Senior Master, 2/7th of the License fees/compensation, that will be received under this Agreement. This amount will be deposited within one week of receipt of the amount.

(d) The Prothonotary and Senior Master, High Court, Bombay to invest this amount in a recurring deposit with a Nationalized Bank for a period of one year and at the end of year, to invest the consolidated amount in fixed deposit with a Nationalized Bank.

(e) This to be continued until further orders.

2 The Notice of Motion accordingly stands disposed.

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3 The dispute is between family members. The plaintiffs are the sisters and the defendants- five brothers. In the Notice of Motion, the plaintiffs are seeking directions against the defendants to disclose all assets and properties belonging to the deceased Hajrabai Riyazuddin-their mother and also for appointment of Receiver, restraining the defendants from creating third party rights etc.

4 On 12th January 2010, the defendants had made a statement that they will maintain status-quo of the property till 28th January 2010. The status-quo statement was extended from time to time and has been continuing till date, i.e., for more than six years. The suit itself, is also ripe for hearing since the defendants to file their written statements.

5 In the circumstances, in my view, it will be only fit and proper if the status-quo order is continued until the disposal of the suit and the suit proceeds for trial.

6 The first statement recorded on 12th January 2010 and continued till date, shall operate until hearing and final disposal of the suit as order in this notice of motion.

7 The notice of motion No.13 of 2010 accordingly stands disposed.

8 The parties to also file their respective affidavits of documents and give inspection to the other side within two weeks from today. Within one week thereafter, the parties to file their respective statements of admission and denial with reasons for denial. The suit be listed for issues on 8th August 2016.

9 Notice of Motion (Lodg.) No. 904 of 2010 be listed for hearing on 21st July 2016.

10 It is clarified that if the defendants wish to dispose any property, the defendants are at liberty to approach this Court for appropriate modification of the status-quo order.

(K.R. SHRIRAM, J.)