

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

**NOTICE OF MOTION NO.836 OF 2008
IN
SUIT NO.3502 OF 2007**

M/s.Padmavati DevelopersPlaintiff

V/s.

Azim Kasam MansooriDefendant

Mr.Tushar Dahibawkar i/by M/s.Dahibawkar & Co. for plaintiff.

Mr.Pritesh V.Bhagat for the defendant.

CORAM : K.R.SHRIRAM,J

DATE : 18.8.2016

P.C.:-

1 In this Notice of Motion the plaintiff is seeking appointment of receiver and to restrain the defendant from creating any 3rd party rights. The suit is filed for specific performance of a Memorandum of Understanding dated 12.7.2005, Development Agreement dated 23.8.2005, Power of Attorney dated 23.8.2005 and a separate agreement dated 26.8.2005. It is 11 years since the agreement has entered into, 9 years after the suit was filed and 8 years after the Notice of Motion was taken out. The counsel appearing for the plaintiff states that the defendant's counsel made a statement that they will not create any 3rd party rights. The counsel for the defendant denies any such statement having been made. The counsel for the plaintiff is unable to show any order recording such a statement made by the counsel for the defendant.

2 Moreover, no case has been made out for grant of interim relief today which was not pressed for 8 years ago. Moreover, the defendant has filed the written statement. It will be in fitness of things, if the parties go on with the trial. Therefore, Notice of Motion stands disposed.

3 Within two weeks from today, parties to file their respective affidavit of documents and give inspection of documents to each other. Within one week thereafter parties to exchange statement of admission and denial with reasons for denial. Suit be listed on 19.9.2016 for issues on which date both the counsels to come with the agreed draft of issues.

(K.R.SHRIRAM,J)