

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

**NOTICE OF MOTION NO.791 OF 2012
WITH
NOTICE OF MOTION NO.1351 OF 2016
IN
SUIT NO.2878 OF 2011**

Nevada Properties Pvt. Ltd.Applicant/Plaintiff
V/s.
Alice Infrastructure Pvt. Ltd. & Ors.Defendants

Mr. Akshay Patil a/w. Mr. Mayur Bhojwani i/b. M/s. Manilal Kher
Ambalal & Co. for the applicant/plaintiff.

Mr. Nimay Dave a/w. Mr. Aditya K. and Mr. Surya Abhishek R. i/b.
M/s. Hariani & Co. for the defendant nos.2,3,6 and 7.

**CORAM : K.R.SHRIRAM,J
DATE : 26th AUGUST, 2016**

P.C.:-

1 There are two notices of motion listed today. The notice of motion no.791 of 2012 is for an order restraining the defendants from creating third party rights to the properties mentioned in Exhibit SS to the plaint and Exhibits A and B to the notice of motion and to disclose the assets of the defendants and for appointment of the Court Receiver.

2 This notice of motion was lodged on or about 22nd March, 2012. No ad-interim relief was granted. We are in end of August, 2016 and no case is made out as to how the situation has changed since

2012 till today warranting an order in the notice of motion. The written statement has also been filed and the plaintiff has filed their evidence and the plaintiff's documents are also marked. The trial has in effect begun.

3 In the circumstances, nothing survives in the notice of motion. The notice of motion accordingly stands disposed.

NOTICE OF MOTION NO.1351 OF 2016

1 This notice of motion has been take out to decide the issue of relevancy and admissibility of the documents relied upon by the defendant nos.2,3,6 and 7.

2 The objections can be considered when the evidence of defendant nos.2,3,6 and 7 is being led. This notice of motion, therefore, can be disposed and is accordingly disposed.

SUIT NO.2878 OF 2011

1 The statement of the counsel for the plaintiff that they will file their list of witnesses and serve a copy thereof upon the defendants within one week from today is accepted.

2 The counsel for the plaintiff states that they have taken inspection of the documents relied upon by defendant nos.2,3,6 and 7 and they will respond to these defendants with a statement of admission and denial with reasons for denial within two weeks from today. The statement is accepted.

3 The counsel for the parties state that the documents tendered by the plaintiff have already been received in evidence to the extent as recorded in the order dated 8th December, 2015. The counsel for the parties further state that Mr. Abhishekh Bhadang, an advocate of this court be appointed as Commissioner to record evidence in the matter.

4 Mr. Abhishekh Bhadang is, therefore, appointed as Commissioner to record evidence in the matter. The fees, administrative expenses of the Commissioner together with typing charges and venue charges, if any to be shared equally between the parties, i.e., the plaintiff on one part, defendant nos.2,3,6 and 7 on second part and defendant nos.4 and 5 on third part and the same will be costs in the suit.

5 The Commissioner to endeavor to complete recording of evidence of PW-1 by 30th November, 2016. The Commissioner to fix minimum two/three dates per session for cross examination of PW-1. If the parties do not respond promptly within 48 hours of receiving a communication from the Commissioner suggesting the subsequent dates, the Commissioner to go ahead and fix the dates convenient to him and the parties shall make themselves available at the time and dates fixed by the Commissioner. If the plaintiff or the witness does not remain present, the Commissioner should close the evidence of PW-1 and if the defendants do not remain present to cross examine the witness, the defendants' cross examination should be treated closed as no cross. Once the dates are fixed, the Commissioner not to grant adjournment on any ground whatsoever unless the situation is so grave that it warrants an adjournment and for reasons recorded.

6 Liberty to apply.

(K.R.SHRIRAM,J)