

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

**NOTICE OF MOTION NO. 991 OF 2010
WITH
CHAMBER SUMMONS NO. 343 OF 2015
IN
SUIT NO. 3615 OF 2007**

Mr.S.R. Dantal .. Plaintiff
Vs.
Mr.Sudhakar Ganpat Rane & Ors. .. Defendants

Mr.Mihir Joshi for plaintiff.

Mr.Aseem Naphade a/w. M/s. Gayatri Sharma i/b S.K. Srivastav & Co. for defendant Nos.1 to 3.

Ms.Simeen Shaikh a/w. M/s. Rashmi Patil for defendant nos.4.

Mr.Jaideep K. Mitra i/b D.P. Adarkar for Society (applicant in CHS/343/2015).

**CORAM : K.R.SHRIRAM, J.
DATE : 15TH NOVEMBER, 2016**

P.C.

1 This notice of motion has been taken out by the plaintiff to restrain the defendants from creating any third party rights. The notice of motion has been taken out on 6th April 2010. No ad-interim order was passed and it does not appear that even an application for any relief was ever made by the plaintiff. The situation has remained as it was in 2010, viz., defendant no.4, Ms.Shaikh, counsel for defendant no.4 states defendant no.4 is in possession of the suit property. No affidavit has been filed by the plaintiff explaining

why the interim relief sought, should be granted today which was not found necessary six years ago when the notice of motion was taken out. Moreover, since defendant no.4 has stated that defendant no.4 is in possession, the question of granting prayer clause (a) in the notice of motion also does not arise.

2 At the same time, it is clarified that should defendant no.4 intend to create any third party rights, they shall give not less than six weeks notice in advance to the advocate for the plaintiff, at which stage, the plaintiff will be at liberty to apply to the Court for appropriate relief, as advised.

3 The notice of motion accordingly stands disposed.

4 The counsel for defendant no.4 states that written statement is ready and will be filed in the registry by tomorrow. The registry to accept the same and take the same on record subject to removal of office objections. The counsel for defendant nos.1 to 3 undertakes to the Court that defendant nos.1 to 3 will file their written statement and serve a copy thereof upon the plaintiff within one week from today.

Should defendant nos.1 to 3 file written statement within one week, with advance copy to the plaintiff, the registry to accept the same and take

the same on record subject to removal of office objections. If defendant nos.1 to 3 does not file the written statement within one week with advance copy to the plaintiff, the suit to proceed as undefended suit as against defendant nos.1 to 3.

5 The suit be listed for directions on 25th November 2016.

(K.R. SHRIRAM, J.)