

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

**NOTICE OF MOTION NO.2412 OF 2009
IN
SUIT NO.1692 OF 2009**

Jayant B. SoniPlaintiff

V/s.

Hansa A. Jain & Ors.Defendants

Ms. Meena Bhatia i/b. Jhangiani Narula & Associates for the plaintiff.
Mr. Rushabh Seth i/b. M/s. M.S. Bodhanwala & Co. for the defendant
nos.5, 5A and 5B.

**CORAM : K.R.SHRIRAM,J
DATE : 4th AUGUST, 2016**

P.C.:-

1 This notice of motion is taken out for appointment of Court Receiver and for injunction restraining the defendants from utilising the suit property. The suit was lodged on 29th April, 2009. The notice of motion has been filed on 9th July, 2009. Ad-interim order was also not pressed for. There is nothing on record to show any change in circumstances between 2009 and today, which is almost 7 years.

2 The counsel for the defendant nos.5,5(a) and 5(b) states that they have filed their written statement. The counsel for the plaintiff states that she is not sure whether the writ of summons upon defendant nos.1,2,3,4,4(a) to 4(e) has been served or not. However,

from the order dated 6th May, 2009 it appears that somebody had appeared for the defendant no.4(c).

3 From the records it also appears that all the defendants have been served. In the affidavit of service of one R.J. Tiwari affirmed on 25th February, 2011 it is stated that all the defendants, viz., defendant nos.1 to 5(b) have been served.

4 The written statements of defendant nos.5, 5(a) and 5(b) and defendant nos.1 to 3 are on record.

5 If the defendant no.4 and 4(a) to 4(e) has not filed any written statement till date, the suit as against them to be transferred to the list of undefended suits.

6 In the circumstances, the notice of motion is dismissed and the suit to proceed to trial.

7 The parties to file their respective affidavit of documents and give inspection of all the documents within three weeks from today. Within one week thereafter, parties to file and exchange their statement of admission and denial with reasons for denial.

8 The suit be listed for issues on 19th September, 2016.

(K.R.SHRIRAM,J)