

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

**NOTICE OF MOTION NO.1500 OF 2012  
WITH  
CHAMBER SUMMONS (L) NO.1697 OF 2015  
IN  
SUIT NO.4577 OF 2000**

Meena Ramesh Lulla & Ors. ....Applicants/Plaintiffs

V/s.

Mrs. Heena Omprakash Alreja & Ors. ....Defendants

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Ms. Prachi Khandge a/w. Ms. Ayodhya Patki i/b. M.M. Vashi for the applicants/plaintiffs.

Ms. Khushbu Jain a/w. Mr. Darshan Mehta i/b. M/s. Dhruve Liladhar & Co. for the defendant nos.1(a) to 1(c).

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**CORAM : K.R.SHRIRAM,J**

**DATE : 9<sup>th</sup> AUGUST, 2016**

**P.C.:-**

**NOTICE OF MOTION NO.1500 OF 2012**

1           The notice of motion is for appointment of Court Receiver in respect of the properties mentioned in prayer clause - (a) and to prevent the defendants from entering into and occupying the flat mentioned in prayer clause - (b). The counsel for the applicants states that no ad-interim relief was granted but is unable to state whether they even moved for any ad-interim relief.

2           This notice of motion has been pending from 2012 and no case is made out today for any change in circumstances which

warrants the relief sought in the motion to be granted. The parties have also filed their written statement and the suit is listed today for settling the issues.

3           Therefore, the notice of motion is dismissed.

4           The chamber summons lodging no.1697 of 2015, which is also listed today has been disposed by an order dated 5<sup>th</sup> October, 2015.

5           Therefore, the chamber summons need not be listed again. Notwithstanding disposal of the chamber summons, the applicants to remove all office objections and get the chamber summons numbered within two weeks from today.

6           Heard the counsels and the following issues arise in the matter :-

### **I S S U E S**

“1) Whether the defendant nos.1(a) to 1(c) prove that the suit property being flat no.83, 8<sup>th</sup> Floor, 75, Peacock Palace, Madhav Co-op. Housing Society Limited, Bhulabhai Desai Road, Mumbai 400 026 (suit flat) was purchase jointly by deceased Naraindas

Alreja & Omprakash Alreja (original defendant no.1) by equally contributing 50% towards payment of consideration?

2) Whether the defendant nos.1(a) to 1(c) prove that the Late Naraindas Alreja under a Will dated 31<sup>st</sup> January, 1985, bequeathed his share in the suit flat as 50% to Omprakash Alreja (original defendant no.1), 25% to Bhagwandas Alreja (plaintiff's father) and 25% to Srichand Alreja (defendant no.2)?

3) Whether the defendant nos.1(a) to 1(c) prove that the Bhagwandas Alreja & Srichand Alreja transferred and surrendered their right to the suit flat in favour of Omprakash Alreja in their lifetime?

4) Whether the defendant nos.2(a), 2(b) and 2(c) prove that the written statement and all other affidavits filed in the suit by the original defendant no.2 have been filed under influence of original defendant no.1 and after his death, by defendant nos.1B?

5) Whether the defendant nos. 2(a), 2(b) and 2(c) prove that the suit flat was purchased when the original defendant no.1 was mere 17 year old college going student and had no earning source to contribute for purchasing of the suit flat?

6) Whether the plaintiffs are entitled for a declaration that the properties listed in prayer clause – (a) are jointly held by the plaintiffs and the defendant nos.1 to 8 and the plaintiffs are entitled to 1/9<sup>th</sup> share therein?

(7) Whether the suit flat be partitioned by metes and bounds between the plaintiffs and the defendant nos.1 to 8 and 1/9<sup>th</sup> share of the plaintiffs be secured to the plaintiffs?

(8) In the alternative, if the suit flat cannot be partitioned by metes and bounds, whether the plaintiffs are entitled to sale the suit flat and 1/9<sup>th</sup> of the sale proceeds be paid over to the plaintiffs?

(9) Whether the plaintiffs are entitled to an order to direct sale of all movable properties mentioned in prayer clause – (e) and 1/9<sup>th</sup> of the sale proceeds be handed over to the plaintiffs?

(10) Whether the plaintiffs are entitled to a declaration that the plaintiffs are entitled to use and occupy the suit flat?

(11) Whether the plaintiffs are entitled to a permanent and mandatory order and injunction against the defendant nos.1 and 2 from entering into and occupying the suit flat?

(12) What decree? What order?

7           The plaintiffs to file their list of witnesses and affidavit in lieu of examination in chief of the first witness and serve a copy thereof upon the defendants on or before 17<sup>th</sup> September, 2016.

8           Stand over to 23<sup>rd</sup> September, 2016 for marking of documents on which date the plaintiffs' first witness to remain present in court.

**(K.R.SHRIRAM,J)**