

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

**NOTICE OF MOTION NO.1031 OF 1997
IN
SUIT NO.1079 OF 1997**

Mrs.Neelam Nathwani & Anr.Plaintiffs

V/s.

Mr.Bhanusingh B.Thakur @ Mazhar
Hussain & Ors.Defendants

Mr.Pradeep Bakhru a/w Ms.Smiti Verma i/by Wadia Ghandy & Co. for
plaintiffs.

Ms.Jaishree Surati i/by M/s.Ashwinikumar & Co. for defendant no.1.

Mr.Rupesh R.Lanjekar for defendant no.3.

Mr.Surel Shah i/by Rohitashwa N.Shetty for applicant in Chamber
summons No.638 of 2016.

**CORAM : K.R.SHRIRAM,J
DATE : 18.8.2016**

P.C.:-

1 The counsel for the plaintiffs on instructions states that this
court in its order dated 27.3.2006 in Writ Petition No.2752 of 2005
and Writ Petition No.2753 of 2005 has recorded as under :-

*"1. The learned counsel for the respondent no.1
makes a statement that they will not develop and/or
carry on any construction activity on the plots of land
being the subject matter of the present petition.*

*2. The learned counsel further makes a statement
that they will not alienate, encumber or create third
party right or part with possession thereof to any third
party. In view, thereof, no further interim order is
necessary. Statement is accepted as an undertaking
on the part of respondent no.1 to the court.
Respondents are allowed to file additional affidavit in
reply to the amendment"*

2 The counsel for the plaintiffs states that respondent no.1 is the defendant no.1 in this suit. The counsel also states that pursuant to an order passed by this court on 1.9.2010 read with order dated 20.1.2016 these two writ petitions have been directed to be heard along with the present suit. The counsel states that in view of the statement recorded in the order dated 27.3.2006 quoted above, nothing would survive in the present Notice of Motion as the order protects the interest of the plaintiffs.

Notice of Motion stands disposed accordingly.

3 Chamber summons bearing No.638 of 2016 be listed for hearing on 24.8.2016.

4 The counsel for the plaintiffs states that plaintiff no.2 died on 14.12.2015. He further states that plaintiff no.1 is the only legal heir of plaintiff no.2 and therefore, name of plaintiff no.2 be struck off. Name of plaintiff no.2 as requested be struck off. Amendment to be carried out and copy of the amended plaint to be served within one week from today.

(K.R.SHRIRAM,J)