

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

**NOTICE OF MOTION NO. 3909 OF 2008
IN
SUIT NO. 2347 OF 2005**

Satish Manilal Shah .. Plaintiff
Vs.
Jagdish Manilal Shah & Ors. .. Defendants

Mr.U.J. Makhija, senior advocate with Mr.Chande i/b Daru Shah & Co. for plaintiff.

Mr.Mehul A. Shah for defendant no.1.

**CORAM : K.R.SHRIRAM, J.
DATE : 16TH JUNE, 2016**

P.C.

1 The counsel for defendant no.1 states as under :

(a) Defendant No.1 shall not create any third party rights or encumber or alienate any of the immovable properties which are in his possession/control;

(b) As regards, the Fixed Deposits disclosed in the affidavit dated 27th January 2016, the Fixed Deposits will not be encashed and will be renewed from time to time with cumulative interest until the disposal of the suit;

(c) The Shares in the company mentioned in the affidavit dated 27th January 2016, will remain in the same name until the disposal of the suit and all dividends received

will be credited to any of the accounts mentioned at serial Nos.9, 10 and 11 in the list annexed to the affidavit dated 27th January 2016.

2 Mr.Makhija, counsel for the plaintiff submits that there are two other properties being Room No.28 and 30 which are tenanted and in possession of defendant no.1. In the affidavit in reply of defendant no.1-Jagdish Manilal Shah, affirmed on 7th January 2016, it is averred that Room Nos. 28 and 30 are tenanted premises and in possession of defendant no.4. Defendant no.4, despite service has not remained present. No affidavit in reply also is filed. The plaintiff to file affidavit of service within one week from today, if not filed already.

3 It is further submitted by Mr.Makhija that defendant no.4 has not been appearing though served and there is a serious apprehension that he might create third party rights and requests Court Receiver be appointed for the said two tenanted Room Nos.28 and 30. Counsel for defendant no.1 has no objection.

4 In view thereof, the Court Receiver of this Court is appointed as Receiver of the two rooms being Room No.28 and Room No.30 situated at 9-D, Cawasji Patel Street, Fort, Mumbai 400 001.

5 The Court Receiver to forthwith take only symbolic possession of the two rooms being Room No.28 and Room No.30 situated at 9-D, Cawasji Patel Street, Fort, Mumbai 400 001 in accordance with law.

6 The notice of motion stands disposed.

(K.R. SHRIRAM, J.)