

IN THE HIGH COURT OF JUDICATURE AT BOMBAY**ORDINARY ORIGINAL CIVIL JURISDICTION****APPEAL NO. 489 OF 2015
IN
NOTICE OF MOTION (L) NO. 2173 OF 2015
IN
SUIT (L) NO. 821 OF 2015**

Mrs. Saroj H. Karwa & Ors. .. Appellants
versus
Savitri D. Kabra & Ors. .. Respondents

Mr. D. D. Madon – Senior Advocate with Mr. Aditya Shiralkar with Mr. Jani i/b. M/s. Vigil Juris for Appellants.
Mr. S. U. Kamdar – Senior Advocate with Mr. Karl Tamboly, Shaheda Madraswala, Aditi Bhansali for Respondent No. 1.
Mr. Sarosh with Mr. Arun Panicker for Respondent No. 4.

**CORAM: DR. MANJULA CHELLUR, C. J. AND
M. S. SONAK, J.
DATE : 07 SEPTEMBER 2016**

P.C.:

1] We are aware of the sensitivity of the litigation and the relation between the parties. Longer the pendency of the proceedings more strained relationship between the parties. However, fact remains that notice of motion in suit was not heard on merits and the learned Judge only as an ad interim injunction at paragraph 27 of the impugned order made the following directions :

*“(a) Defendants Nos. 1 to 5 are restrained from dealing further with any of the shares and securities shown in Exhibit 'M' to the plaint, in relation to all shares received or transferred from Demat Account No. 1202900000038140;
(b) Defendant Nos. 1, 2 and 3 shall also, on or before 5th October 2015 deposit with the Prothonotary & Senior Master all amounts transferred to their bank accounts from the Plaintiff's bank account No. 06461000003564 held with the Punjab & Sind Bank, Prabhadevi Branch;*

(c) In addition, all the Defendants are restrained from acting further or in pursuance of the alleged family settlement dated 18th February 2015, a copy of which is at Exhibit 'E' to the plaint."

2] However, it is brought to our notice that notice of motion was not ready to be heard since pleadings were incomplete at that relevant point of time. Further it is submitted that though pleadings are ready, not yet taken on record. If notice of motion is heard on merits by learned Single Judge he would be referring to the pleadings which would come on record, would assist the court to take a proper opinion depending on the facts and the law involved in it. If notice of motion in suit is heard by this court as an appellate court, one stage of litigation would be no doubt less but it may become a burdensome task for the parties. They must have the best possible stages of litigation at an easy access. Time to deposit is extended from time to time from September 2015. In the facts and circumstances of the matter, we extend time to deposit for a month from today as directed in direction (b) of the impugned order. Meanwhile pleadings should be completed and the notice of motion could be heard on merits in the suit. If there is any attempt to prolong the hearing of the notice of motion on merits, it is open to the parties to bring to the notice of the court the prejudice or the difficulties they have to face. Depending upon the party who is delaying hearing of the matter, learned Single Judge can proceed with the matter modifying the directions already issued.

3] Appeal is disposed of in the light of above observations.

CHIEF JUSTICE

(M. S. SONAK, J.)