

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

**NOTICE OF MOTION NO. 4226 OF 2008
IN
SUIT NO. 483 OF 2005**

Vikas Narayan Raikar .. Plaintiff
Vs.
Mahila Samaj Vikas Seva Kendra & Ors. .. Defendants

None for plaintiff.

Ms.Ujwala Sawant i/b R.V. Govilkar for defendant nos.1, 2, 4 to 6 and 8.

**CORAM : K.R.SHRIRAM, J.
DATE : 1ST SEPTEMBER, 2016**

P.C.

1 In this notice of motion, the plaintiff is seeking appointment of Court Receiver and for an order restraining the defendants from creating third party rights until the disposal of the suit. The suit is of the year 2005 and the Agreements of which the plaintiff is seeking specific performance in the suit is dated 27th September 1995 and the Supplementary Agreements dated 8th March 2002 and 23rd December 2002. No ad-interim order has been granted. It does not appear from the records that the plaintiff had even applied for ad-interim relief.

2 Moreover, the plaintiff had taken out notice of motion No.582 of 2005 for similar reliefs which came to be dismissed by this Court, vide an order

dated 18th March 2006, in which the Court has observed as under :-

“..... A consistent view has been taken by this court that a decree for specific performance of an agreement to develop the property cannot be granted. The Plaintiffs, thus, do not have a prima facie case, therefore, there is no question of granting any interim order in favour of the Plaintiff. Motion is, therefore, disposed of.”

3 In the circumstances, this notice of motion also is rejected as no case is made out.

4 Ms.Ujwala Sawant, Advocate instructed by Mr.R.V. Govilkar appearing for defendant nos.1, 2, 4 to 6 and 8 states that these defendants have filed the written statement way-back in November 2008. It is not clear from the record and proceedings as to whether the other defendants have been served the writ of summons or have filed the written statement.

5 Nobody is present for the plaintiff today.

6 The suit be listed for directions, tomorrow, i.e., 2nd September 2016.

(K.R. SHRIRAM, J.)