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IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

NOTICE OF MOTION NO.271 OF 2016

IN

SUIT NO.4326 OF 1997

WITH

CHAMBER SUMMONS NO.1834 OF 2016

IN

SUIT NO.4326 OF 1997

White Rose Developers Pvt. Ltd.

...Applicant/Plaintiff

vs.

Mrs. Nirmala Chopra & Ors.

...Defendants

.....

Mr. Cyrus Ardeshir, a/w. Mr. Pradeep Bakhru and Mr. Raghav Gupta, i/b. Wadia Ghandy & Co., for the Plaintiff.

Mr. H.J. Thakur, Senior Advocate, a/w. Mr. Jeetendra Ranawat and Ms. U.S. Patel, i/b. M.M, Patel, & Co., for the Defendants.

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CORAM : S.C. GUPTE, J.

DATED : JULY 27, 2017

P.C. :

. Heard learned Counsel for the parties.

2. This Notice of Motion is today pressed for ad-interim reliefs. The application is on the footing that, by a notice issued on 20 September 2016, the Defendants have indicated that they were free to deal with the suit property, since there was no application made in the Notice of Motion for ad-interim reliefs. The suit is for specific performance of an agreement for sale dated 27 October 1994, read with minutes of meeting dated 27 February 1997. The suit property consists of a plot of land admeasuring

about 1344 sq. yards at Bandra in Mumbai. There was an interim order operating against the original sole Defendant in the present suit., i.e. the predecessor of the Defendants, who died on 8 December 2013. After his death, two Chamber Summonses were taken out by the parties, one by the Plaintiff herein to implead legal heirs of the deceased Defendant and the other by the Defendants herein to implead executors of the last will and testament of the deceased Defendant. Both Chamber Summonses were allowed by this Court on 23 February 2015. Subsequent to this impleadment, by a separate Chamber Summons, the name of Defendant No.1 herein was corrected. All this while, the evidence in the suit has been fully led and the suit is now ripe for hearing. In these peculiar circumstances, considering that there is already an interim injunction against the predecessor-in-title of the Defendants herein, through whom they claim, the Plaintiff did not press its application for ad-interim reliefs in the Notice of Motion. The application now is necessary due to the intimation given by the Defendants that they were free to deal with the suit property. Accordingly, the Plaintiff has approached this Court.

3. Considering the fact that there already was an injunction against the predecessor-in-title of the Defendants in respect of creation of third party rights and this injunction continued till the date of his death and the matter is anyway ripe for hearing of arguments and is, accordingly, being fixed for arguments, there is no question of creation of any third party rights by the Defendants till the suit is heard. Accordingly, the Notice of Motion is disposed of by directing the Defendants not to create any third party right in respect of the suit property till the suit is finally heard and disposed of.

4. The suit to come up on board for hearing of arguments on 31 August 2017 at 3.00 p.m.

5. Chamber Summons No.1834 of 2016, which is shown on board at Sr. No.5, has already been disposed of by an order passed on 19 April 2017. The Chamber Summons is removed from the board.

(S.C. GUPTE, J.)