

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
TESTAMENTARY AND INTESTATE JURISDICTION

NOTICE OF MOTION NO.45 OF 2017

IN

MISCELLANEOUS PETITION NO.112 OF 2016

Veena Vihar Co-op. Housing Soc. Ltd.	...	Applicant
In the matter between:		
The Administrator General	...	Petitioner
And		
N. Thangam Ramchandran	...	Deceased
And		
Veena Vihar Co-op. Housing Soc. Ltd.	...	Applicant

Mr. P. J. Thorat a/w. Mr. Jay Kishore Bhatia for Applicant.

Mr. U. S. Upadhyay, AGP for Petitioner.

Mr. S. G. Adake, Administrator General, Maharashtra State, Petitioner in person.

CORAM : R. G. KETKAR, J.

DATE : AUGUST 18, 2017

P.C. :

Heard Mr. Thorat, learned Counsel for applicant - Veena Vihar Co-operative Housing Society Limited (for short 'Society'), Mr. Upadhyay, learned AGP for petitioner and Mr. Adake, in-charge Administrator General at length.

2. By this Motion, applicant Society has prayed for recalling the order dated 16.12.2016 passed by this Court in Miscellaneous Petition No.112 of 2016 only in respect of flat No.113 admeasuring 550 sq.ft. carpet area situate on the first floor of the Society, 17/A, Flank Road, Sion, Koliwada, Mumbai 400 022 (for short 'suit premises'); for directing the petitioner, the Administrator General, Maharashtra State to implead the applicant as party respondent in Miscellaneous Petition No.112 of 2016.

3. After arguing the matter for quite some time, Mr. Adake, in-charge Administrator General and Mr. Upadhyay, learned AGP agree that order dated 16.12.2016 in respect of the suit premises may be modified thereby by deleting the suit premises. They further state that the Administrator General will handover possession of the suit premises to the Society within two weeks from today. They further submit that the Society may be directed not to create third party interest and part with possession of the suit premises.

4. Mr. Adake states that save and except the suit premises, the Administrator General has taken control of the following assets of the deceased:

- 1 Credit balance in Savings Bank Account Rs.751.81/-
No.402586951 (Old No.29594) with Indian
Bank, King's Circle Branch, Mumbai.
- 2 Credit balance in Savings Bank Account Rs.5,40,321.50/-
No.402637589 (Old No.36632) with Indian
Bank, King's Circle Branch, Mumbai.
- 3 Household articles lying in the flat of the Not known.
deceased.

5. Mr. Adake further states that within six months from today, he will dispose of the proceedings initiated by (1) S. C. Dand, (2) Sanjay Shah and (3) Jayantilal B. Shah (for short 'applicants') after hearing them as also the Society.

6. Mr. Thorat states that Mr. K. S. R. Murty, Treasurer of the Society is present in the Court. He has tendered photocopy of his Passport, which is taken on record and marked 'A' for identification. Upon taking instructions, he states that during the pendency of the proceedings instituted by the applicants, Society will neither create third party

interest nor part with possession of the suit premises. Statement made by Mr. Thorat, on instructions, is recorded.

7. Mr. Adake further states that articles of the deceased are lying in the suit premises and he will pass appropriate order with regard to those articles as also as regards possession of the suit premises while disposing of the proceedings filed by applicants and till such time, the articles may not be removed from the suit premises.

8. Mr. Thorat assures that after taking possession of the suit premises, Society will not remove those articles. Statement made by Mr. Thorat is recorded.

9. In view thereof, Notice of Motion is partly made absolute in terms of prayer clause (a) only in respect of the suit premises. As the petitioner Administrator General has taken possession of the rest of the assets of the deceased, it is not necessary to consider prayer clause (b) of the Motion. Possession of the suit premises shall be handed over to the Society within two weeks from today. Order accordingly.

(R. G. KETKAR, J.)

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