

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

**NOTICE OF MOTION NO. 328 OF 2014
WITH
NOTICE OF MOTION NO. 1146 OF 2014
WITH
NOTICE OF MOTION NO. 259 OF 2014
(NOT LISTED)
IN
SUIT NO. 1381 OF 2012**

Vinod G. Gidwani	.. Plaintiff
Vs.	
Anil G. Gidwani & 2 Ors.	.. Defendants

Ms.Shirin Shaikh i/b Rava-Shah & Co. for plaintiff.
Mr.Vinod G. Gidwani present.
Mr.Anil G. Gidwani-defendant no.1 appearing in-person.

**CORAM : K.R.SHRIRAM, J.
DATE : 20TH APRIL, 2017**

P.C.

NOTICE OF MOTION NO. 259 OF 2014

1 Though this notice of motion is not listed for hearing today, it is taken up for hearing by consent of the plaintiff and defendant no.1 who is appearing in-person. The counsel for the plaintiff states that the order passed on 27th February 2014 be confirmed as order in this notice of motion and notice of motion be disposed.

Defendant no.1 states he has no objection.

2 Therefore, the order passed on 27th February 2014 is confirmed as order in the notice of motion and accordingly disposed.

NOTICE OF MOTION NO. 328 OF 2014

3 In view of the order passed in notice of motion No.259 of 2014, Ms. Shaikh for the applicant/plaintiff seeks leave to withdraw the notice of motion.

4 The notice of motion is dismissed as withdrawn.

NOTICE OF MOTION NO. 1146 OF 2014

5 Defendant no.1 is submitting to decree in terms of prayer clause 21.a.iii. Ms.Shaikh on instructions from the plaintiff states that property can be divided by metes and bounds and according to defendant no.1, it cannot be.

6 Therefore, both of them agree that an Architect be appointed by this Court to inspect the property and give a report as to whether the suit property can be divided by metes and bounds. The counsel for the plaintiff states that they are ready to share the costs and expenses of the Architect equally with defendant no.1. Defendant no.1 initially was not willing to share the cost of the Architect. But later, both plaintiff and defendant no.1 agreed that they are ready to share the costs and expenses of the Architect equally and they shall both co-operate fully with the Architect and provide copies of all plans and drawings which are available with them. The

Associate of this Court has given a list of Architect on the panel of this Court.

7 Accordingly, Shrinivas M. Kini & Co. having office at 134, Nagindas Master Road, Mumbai 400 023, Contact No. 22674362

is appointed as Architect in the matter. The Architect to compete inspection and submit report within six weeks and raise invoice directly upon plaintiff and defendant no.1.

8 At this stage, defendant no.1 said he was submitting to decree only subject to certain conditions. It was brought to defendant no.1's notice that his prayer clause in the notice of motion did not mention any such conditions to which he replied amendment has been made to affidavit in support and Court was being very technical.

CONTEMPT

9 At this stage, it should be noted that defendant no.1, though he had not obtained permission under Chapter LVIII-A of the Bombay High Court (Original Side) Rules, 1980 for appearing in-person or given an undertaking as required, I still permitted him to address the Court. The conduct of defendant no.1, right from the beginning, has been rather offensive. He was

disrespectful and contemptuous.

After the above orders were dictated, defendant no.1 did not stop. Despite being told that his conduct was disrespectful and contemptuous and I will have to call the Police to take him out if he did not conduct himself properly, defendant no.1's contemptuous response was "*Bolva, Bolva*", which in English means "*Call, call*".

10 When this last part of the order was being dictated, defendant no.1 again started raising his voice and shouting "*You are a Public Servant and that this Court should behave itself like a Public Servant should behave.*"

Defendant no.1 was addressing the Court in an aggressive, discourteous and offensive manner. His demeanour was loud and disrespectful and to my mind intended to

interfere with the administration of justice and lower the dignity and authority of

the Court. The language used,

the tone and the manner in which it was expressed was calculated to insult, show disrespect, to overbear and overawe the Court.

In a situation such as this, in my opinion, the Court has to take note of the conduct of defendant no.1 as contempt in the face of the

Court

11 Defendant no.1 be taken into custody for the day till the Court rise, i.e., till 5:00 p.m.

12 The registry to register suo-motu contempt petition against defendant no.1 and list the matter before the appropriate Court for directions.

13 In view of this conduct of defendant no.1, he should not be permitted to address this Court in-person and if he insists on appearing in-person, the matter not be listed before this Court.

This order also to be placed before the Registrar General and Prothonotary and Senior Master.

(K.R. SHRIRAM, J.)