

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

**NOTICE OF MOTION NO.147 OF 2014  
NOTICE OF MOTION NO.422 OF 2016  
IN  
SUIT NO.502 OF 2013**

Messrs Siddharth Developer .....Plaintiff/applicant

V/s.

Mrs.Merlin Rebello & Ors. ....Defendants

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Mr.Gaurav Mehta a/w Mr.Abhay Jadeja, Mr.Arun Unikrishna and Mr.Varun Satya i/by Crawford Bayley & Co. for applicant/plaintiff.

Mr.Prantik Majumdar a/w Mr.Rahul Theckedath i/by M/s.M.P.Savla & Co. for defendant nos.1 & 2.

Mr.P.A.Narayanan i/by Arvin Pinto for respondent no.4 in NMS 422/2016.

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**CORAM : K.R.SHRIRAM,J  
DATE : 10.8.2017**

**P.C.:-**

**NOTICE OF MOTION NO.147 OF 2014**

1 Mr.Majumdar appearing for defendant nos.1 & 2 states that the order dated 30.4.2013 be modified in the sense that the order of injunction in terms of prayer clause-(b) be recalled and defendant nos.1 & 2 will make a statement that they will not create any 3<sup>rd</sup> party rights or alienate or encumber suit property. Mr.Majumdar states that the order is also coming in the way of defendant nos.1 & 2 giving the house on leave and license. Mr.Majumdar states that defendant no.1 is 80 years old and defendant no.2 who is the daughter of defendant no.1 is also of

advanced age.

2           Mr.Mehta appearing for applicant/plaintiff states that the order dated 30.4.2013 granting injunction in terms of prayer clause-(b) should not be altered but at the same time, states that if defendant nos.1 & 2 only want to give house on leave and license, they may do so without prejudice to the rights and contentions of the plaintiff.

3           In view of the statement made by Mr.Mehta, order dated 30.4.2013 is confirmed as order in the Notice of Motion with the clarification that defendant nos.1 & 2 are at liberty to give suit property or part thereof on leave and license basis and the deposit/license fees also be paid to and appropriated by defendant nos.1 & 2.

Notice of Motion accordingly stands disposed.

4           Mr.Mehta undertakes to provide copy of the deed of partnership dated 1.4.2010 with copies of any further alterations or modification or change in constitution and also provide copy of the registration certificate within one week from today.

5           Suit be listed for issues on 12.9.2017 at 3.00 P.M. on which date parties shall come with agreed draft issues and a

separate list of issues on which they are unable to agree.

**NOTICE OF MOTION NO.422 OF 2016**

1 Counsel appearing for the applicant/plaintiff states that nothing survives in this Notice of Motion. Notice of Motion dismissed.

**(K.R.SHRIRAM,J)**