

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY  
ORDINARY ORIGINAL CIVIL JURISDICTION  
NOTICE OF MOTION NO.704 OF 2017  
IN  
SUIT NO.890 OF 2013**

|                                                                                                                                                                     |                           |                                               |
|---------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------------------|-----------------------------------------------|
| M/s. Aakar Enterprises and Anr.<br>and<br>Sanjay Jaissinha Kajaria<br>versus<br>Sub-Registrar of Assurances, Borivali – 6,<br>Mumbai Suburban Dist. Bandra and Ors. | ...<br><br>...<br><br>... | Applicants<br><br>Plaintiff<br><br>Defendants |
|---------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------------------|-----------------------------------------------|

Mr. Zain Mookhi with Mr. R.A.Shah, Mr. N.C.Parekh i/by M/s. Mansukhlal Hiralal and Co., for Applicant/Defendant Nos.5 and 6.  
Mr. S. Bharucha i/by M/s. Navdeep Vora and Associates, for Plaintiff.

**CORAM: S.J. KATHAWALLA, J.  
DATE: 13<sup>th</sup> APRIL, 2017**

**P.C.:**

1. The above Notice of Motion is taken out by the Applicants/Original Defendant Nos.5 and 6. The Notice of Motion is allowed in terms of prayer clauses (a) and (b) which are reproduced hereunder :

“(a) The Hon’ble Court be pleased to direct the Office of the learned Prothonotary and Senior Master High Court, Bombay to return the papers and proceedings brought to this Hon’ble Court from the office of the Hon’ble Small Causes Court which are as following :

- (i) R.A.E. Suit No.793 of 2012 pending in C.R.No.40 ;
- (ii) R.A.E. Suit No.789 of 2012 pending in C.R.No.40 ;
- (iii) R.A.E. Suit No.790 of 2012 pending in

C.R.No.40 ;

(iv) R.A.E. Suit No.792 of 2012 pending in

C.R.No.40 ;

(v) R.A.E. Suit No.83 of 2011 pending in

C.R.No.40 ;

(b) The Office of the Prothonotary, High Court, Bombay, be directed to handover “upon Defendant No.5 giving undertaking to the Hon’ble Court to produce such documents as and when required by the Hon’ble Court, the particulars whereof are as under :

(i) Undated Original Power of Attorney given by Mr. Sanjay Kajaria to Mr. Amubhai Shah and Mr. Kiran Shah;

(ii) Agreement dated 21<sup>st</sup> May, 2004 for sale of suit property by Mr. Sanjay Kajaria to M/s. Aakar Enterprises;

(iii) Possession letter dated 19<sup>th</sup> May, 2006 given by Mr. Sanjay Kajaria to M/s. Aakar Enterprises;

(iv) Letter dated 19<sup>th</sup> May, 2006 for allotment addressed by Mr. Sanjay Kajaria to Tenants of the suit property;”

2. It is clarified that the allegations made in the Affidavit in support of the Notice of Motion, are not admitted by the Plaintiff. Hearing of the Notice of Motion No.900 of 2015 shall stand expedited after the issue framed under Section 9A of the Code of Civil Procedure, 1908 is decided.

3. The Notice of Motion is accordingly disposed of.

**( S.J.KATHAWALLA, J. )**