

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

**NOTICE OF MOTION NO.1261 OF 2014  
IN  
SUIT NO.102 OF 2014**

Aslam Umar Ghojaria & Ors. ....Applicants

***IN THE MATTER BETWEEN :***

Mukhtar Umer Ghojaria ....Plaintiff

V/s.

Aslam Umar Ghojaria & Ors. ....Defendants

WITH

**NOTICE OF MOTION NO.1271 OF 2016**

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Mr.V.J.Mehta a/w Mr.J.S.Shukla i/by Vaibhav Mehta & Associates for the plaintiff.

Mr.Ranjit Thorat, senior Advocate i/by Ashok Pande for defendant nos.1 & 9.

Mr.Nilesh Gala i/by Asad B. for defendant nos.3 & 8.

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**CORAM : K.R.SHRIRAM,J  
DATE : 17.4.2017**

**P.C.:-**

1 This Notice of Motion is taken out for recalling/modifying the status-quo order passed on 10.1.2014. Mr.Thorat appearing for defendant nos.1 & 9 on instructions, states that grave prejudice is caused because of the status-quo order since the tenants are not paying any rent, monthly taxes and water charges are mounting and tenants are also creating 3<sup>rd</sup> party rights so far as Ghojaria estate is

concerned, without permission and in view of status-quo order, they are not answerable to anybody.

2 To protect rights and interest of all the parties, the following order is passed :-

#### ORDER

- (a) All tenants of Ghojaria Estate shall deposit, within 4 weeks from today, all outstanding rents with the Prothonotary & Senior Master, High Court, Bombay ;
- (b) All future rents shall be deposited with the Prothonotary & Senior Master, High Court, Bombay, on the dates they are payable ;
- (c) No tenant will create any 3<sup>rd</sup> party rights without leave of this court ;
- (d) Defendant no.9 is at liberty to pay monthly taxes and water charges and/or any other amounts payable to statutory authority and claim the same for reimbursement from the Prothonotary & Senior Master, High Court, Bombay by rendering account in the form of an affidavit with a copy to the plaintiffs as well as the other defendants.

3 At this stage, Mr.Thorat also submits that the property

mentioned in paragraph-6(A) of the plaint being House bearing New No.6/6, Old No.533, consisting of ground plus one upper storey, comprising of about 800 sq. ft. constructed area on the ground floor and about 700 sq. ft. constructed area on the 1<sup>st</sup> floor, in Petwala Madh, in Gaam : Gathamam, Taluka Palanpur, Dist. Banaskatha, North Gujarat, State of Gujarat, is in very bad need of repairs.

4            Mr.Mehta for the plaintiff on instructions states that not only the roof of the 1<sup>st</sup> floor has collapsed but even the slab also caved in. Mr.Mehta states that the said construction is in absolute need of repairs. Mr.Thorat seeks leave to carry out repairs of the said property to make it inhabitable at the cost of defendant nos.1 and/or 9 without claiming any equity. Mr.Mehta has no objection in view of the statement made by Mr.Thorat. Mr.Thorat states that his client should be permitted to enjoy the said property. Mr.Mehta for the plaintiff states that all the legal heirs are permitted to enjoy the said property.

Therefore, ordered accordingly. Notice of Motion No.1261 of 2014 disposed accordingly.

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

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V/s.

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**CORAM : K.R.SHRIRAM,J  
DATE : 17.4.2017**

**P.C.:-**

1           This Notice of Motion though not listed, taken up for hearing by consent of the parties.

2           Both the counsel state that the order of status-quo passed on 10.1.2014 as modified today be confirmed as order in the Notice of Motion and Notice of Motion be disposed with liberty to approach the court should the need arise. It is always open to the parties to move the court if there are any change in the circumstances. Therefore, in my view, no such leave is required.

3           The order dated 10.1.2014 read with the order passed in Notice of Motion No.1261 of 2014 modifying the status-quo order is confirmed as order in this Notice of Motion and Notice of Motion accordingly, disposed.

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