

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

**NOTICE OF MOTION NO. 637 OF 2014
IN
SUIT NO. 1361 OF 2006**

Mr.Prem Makhija

.. Applicant

In the matter between :

Mamta K. Balani Nee Shoba

K. Makhija

.. Plaintiff

Vs.

Prem Makhija & Ors.

.. Defendants

And

Jolly Bhavan No.3 Co-operative

Housing Society Ltd.

.. Respondent

**WITH
TESTAMENTARY AND INTESTATE JURISDICTION**

TESTAMENTARY SUIT NO. 70 OF 2006

Mamta K. Balani Nee Shoba

K. Makhija

.. Plaintiff

Vs.

Prem Makhija & Ors.

.. Defendants

None for plaintiff in NMS/637/2014.

Mr.Neel Pungliya for defendant no.1.

Mr.Jaydeep Thakkar i/b Jawahar J. Thakkar for defendant no.3.

CORAM : K.R.SHRIRAM, J.

DATE : 20TH APRIL, 2017

P.C.

NOTICE OF MOTION NO. 637 OF 2014

1 This notice of motion is taken out by defendant no.1 to direct the respondent to deposit an amount of Rs.29,301/- along with interest till date against the old balance and a sum of Rs.11,87,139/- along with interest till date which are lying with the respondent or any other amount which has been deposited with the respondent by M/s. Saranga Estate Private Limited under their Agreement dated 17th June 2003 with late Smt. Sheela K. Makhija in respect of flat NO.11 situated at Jolly Bhavan No.3 Co-operative Society Ltd., Dr.Ambedkar Road, Khar, Mumbai 400 052.

2 The counsel for the applicant states that the plaintiff, the defendants and the respondent have been served this notice of motion and undertakes to file an affidavit of service within two weeks.

The counsel also states that a similar notice of motion was taken out by defendant no.3 being notice of motion No.1806 of 2010 for similar reliefs and this Court was pleased to grant the relief vide its order dated 17th June 2011. In that order, it is also recorded that the plaintiffs have no objection to the deposit being made.

3 In the circumstances, notice of motion is allowed in terms of prayer clause (a) which reads as under :

“(a) The Respondent Society be ordered / directed to deposit the total amount which aggregates to the old balance of

Rs.29,301/- along with interest till date and the new balance of Rs.11,87,139/- along with interest till date, which are lying with the Respondent Society or any other amount which has been deposited with the Respondent Society by M/s. Saranga Estate Private Limited under their Agreement dated 17.06.2003 with the late Smt. Sheela K. Makhija in respect of flat No.11 situated at Jolly Bhavan No.3 Co-operative Housing Society Ltd., Dr.Ambedkar Road, Khar, Mumbai-400 052, be ordered to be deposited in this Hon'ble Court and may be directed to be invested in any Nationalized Bank, with such directions as to the renewal of such deposit, during the pendency of the above suit and for such period as this Hon'ble Court may deem fit subject to the outcome of the suit.”

4 This order is without prejudice to the rights and contentions of defendant no.3.

5 The respondent is directed to deposit this amount with the Prothonotary and Senior Master within four weeks. The Prothonotary and Senior Master to invest this amount in fixed deposit with a nationalized bank initially for a period of one year and renew the same year to year until further orders.

6 Notice of motion stands disposed.

7 The suit be listed for directions on 9th June 2017.

(K.R. SHRIRAM, J.)