

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

**NOTICE OF MOTION NO. 1162 OF 2013
IN
SUIT NO. 605 OF 2013**

Dharmesh Shantilal Desai & Ors. .. Applicants

In the matter between :

Dharmesh Shantilal Desai & Ors.Plaintiffs

V/S

Arvind Shantilal Desai & Ors. ...Defendants

Mr.Rajesh Gehani a/w. Ms.Sujal Vikhare for plaintiffs.

Mr.Viral Shukla a/w. Ms.Priti Patel and Ms.Rupali Padgulekar i/b M/s. Shukla and Associates for defendant nos.1 to 4.

CORAM : K.R.SHRIRAM, J.

DATE : 20TH APRIL, 2017

P.C.

1 Mr.Shukla appearing for defendant nos.1 to 4 states that his client, i.e., defendant No.1 is in occupation of the suit premises and defendant nos.1 to 4 have no intention to dispose of or create any third party right in respect of the suit property.

2 In view of this statement made by Mr.Shukla, Mr.Gehani for the plaintiffs states that the notice of motion could be disposed.

3 The notice of motion accordingly disposed.

4 Mr.Gehani points out that the dues of defendant no.6, viz., the society where the suit property is situated have not been paid and as on 23rd March 2017, there is an outstanding of Rs.3,75,526/- payable to the society. Mr.Gehani states that probably this will go up because April 2017 dues are also payable. Shri Shukla also states that defendant no.1 will pay the society dues and will continue to pay on time in future. Mr.Shukla states that all the outstanding amount to the society will be paid by defendant no.1 and will be paid within four weeks.

The statement accepted as an undertaking to this Court.

5 Since, the society dues are not paid, the suit property itself will be at risk. Therefore, defendant no.1 shall not, on any ground whatsoever, commit breach of the undertaking recorded above. If defendant no.1 does so, the plaintiffs are at liberty to move the Court for appropriate orders.

6 Mr.Gehani states that the suit as against defendant nos.2 to 6 has already been transferred to the list of undefended suit by an order dated 5th September 2014 passed by the Prothonotary and Senior Master of this Court.

7 Mr.Shah states that defendant no.1 has filed the written statement and defendant nos.2 to 4 will file a short written statement adopting the written statement of defendant no.1.

This written statement to be filed within four weeks from today. Should defendant nos.5 and 6 also wish to file a written statement, they may do so within four weeks from today. The plaintiffS to forward a copy of this order to defendant no.5 and defendant no.6.

8 Stand over to 27th June 2017 for issues. In the meanwhile, parties to file their respective affidavits of documents, complete discovery and inspection and also exchange statements of admission and denial with reasons for denial.

On the next date, parties also to come with agreed draft issues and a separate list of issues on which they are unable to agree.

(K.R. SHRIRAM, J.)