

IN THE HIGH COURT OF JUDICATURE AT BOMBAY***T. & I. J.*****NOTICE OF MOTION NO. 138 OF 2017****IN****PETITION NO. 1226 OF 2017****Manoj Buddhidhan Doshi****..... Applicant/Petitioner****IN THE MATTER OF****Manoj Buddhidhan Doshi****..... Petitioner****VERSUS****The Secretary,
Vanashri, The Central Bank Employees
Co.o.Hsg.Soc.Ltd. & Anr.****..... Respondents**

Mr.T.G.Vora, a/w. Mr.D.R.Mishra for the Applicant.

Mr.U.S.Upadhyay, A.G.P. for the Respondent no.2.

CORAM : R.D. DHANUKA, J.**DATE : 17th JULY, 2017****P.C.**

Mr.Vora, learned counsel appearing for the applicant (original petitioner) states that both the respondents are already served with the copy of the proceedings as well as notice on 4th July, 2017. None appeared for the society when the matter was called out. The learned A.G.P. appears for the respondent no.2.

2. By this notice of motion, the applicant seeks an order for deputing an Officer of this Court for making inventory of all the articles lying in the suit premises described in prayer clause (a) of the notice of motion and seeks an order

and direction against the respondent no.1 to handover the keys of the suit flat to the Officer of this court who is appointed to take inventory. The applicant seeks various other reliefs in the notice of motion.

3. Learned counsel submits that the applicant is brother of the deceased Mr.Bharat Buddhidhan Doshi who expired on 26th May, 2017 leaving alleged Will dated 29th September,2012. He invited my attention to the public notice dated 1st June, 2017 annexed at Ex.A to the notice of motion issued by the respondent no.1 informing the public at large that the said deceased Mr.Bharat Buddhidhan Doshi was found dead in the flat by the society. By the said notice, the society has notified that whomsoever is legally claiming his/her/their claim, share, right, title and interest in respect of the flat no.D/9 in any legal capacity, must produce the authentic copy of the Court's order within the time prescribed as per law and if such order is not received, the society will take necessary action as per legal advise and in the meantime, no one will be allowed to enter into the said flat situated in the said society, without due process of law.

4. Learned counsel for the applicant states that the dead body of the said deceased brother of the applicant had been handed over to the applicant for cremation and for performing other rites. The whereabouts of the other legal heirs of the deceased if any, is not known. It is submitted by the learned counsel that though the dead body of the deceased was handed over to the applicant, the concerned police station had handed over the keys of the said flat to society. He submits that at this stage, the applicant only seeks a direction from this court that the inventory of the articles lying in the said flat be made by the Officer as may be appointed by this court and the key of the flat shall be handed over to such an Officer with a direction to him to deposit the same in Court.

5. Learned A.G.P. submits that insofar as respondent no.2 is concerned, his client would comply with the order as may be passed by this court in the interest of justice. Statement is accepted.

6. The question as to whether the applicant would be entitled to grant Letters of Administration or not by this court would be decided by this court in Testamentary Petition No.1226 of 2017. Since the keys of the flat are handed over by the police to the society and the society has issued a public notice to obtain appropriate order from the court so that necessary action would be taken by the society, I am inclined to accept the request of the applicant for preparing inventory of the articles lying in the suit flat by an Officer to be appointed by this Court and direct the society to handover the keys of the flat to an Officer of this court appointed by this court.

7. The learned Prothonotary and Senior Master shall depute an Officer of this court for making an inventory of the articles lying in the flat described in prayer clause (a) of the notice of motion.

8. The Senior Inspector of the Police is directed to depute an appropriate Officer from Borivali Police Station to the flat in question when the Officer of this court would prepare an inventory. The concerned Officer of the respondent no.2 police station shall obtain keys of the flat in question from the respondent no.1 society and shall handover the keys to the Officer deputed by the learned Prothonotary and Senior Master. After making an inventory of the articles lying therein, the Officer deputed by this court shall lock the premises and shall deposit the keys of the said flat with the learned Prothonotary and Senior Master of this

court.

9. The respondent no.1 society is directed to handover the keys of the flat in question to the Officer appointed by this Court immediately after the inventory is prepared and the flat is locked by the officer of this court.

10. The respondent no.1 society shall not take any coercive steps in respect of the flat without leave of this court.

11. The expenses and fees of the learned Officer being appointed by the learned Prothonotary and Senior Master shall be borne by the applicant exclusively.

12. The respondent nos. 1 and 2 shall act on the authenticated copy of this order.

13. The applicant shall inform the respondent no.2 about the date and time as may be fixed by the learned Court Officer for compliance. Upon receipt of such notice, the respondent no.2 would depute an Officer of the concerned police station for compliance of this order.

14. Notice of motion is disposed of in the aforesaid order. No order as to costs.

15. The applicant is directed to file affidavit of service within two weeks from today without fail.

(R.D.DHANUKA, J.)