

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

NOTICE OF MOTION NO.2193 OF 2010

IN

SUIT NO.2115 OF 2010

Brijmohan Durgadas Mehra and Anr.Applicants/Plaintiffs

Vs.

Harmesh Charandas Aurora and Ors.Defendants

Mr. B.B. Parekh for the applicants/plaintiffs.

Mr. Aseem Naphade i/b. M/s. M.P. Rege and Co. for the defendant nos.1 to 5.

Mr. Sandeep Bhagwat for the defendant nos.9 & 10.

CORAM : K.R.SHRIRAM, J.

DATE : 9th FEBRUARY, 2017

P.C.:

NOTICE OF MOTION NO.2193 OF 2010

1 Mr. Parekh, counsel for the applicants/plaintiffs states that no ad-interim has been granted since 2010 when the notice of motion has been taken out. Mr. Parekh, on instructions seeks leave to withdraw the notice of motion.

The notice of motion is dismissed as withdrawn.

2 In view thereof, the question of proceeding with the issue framed under Section 9(A) does not arise. The counsel agree that they will go ahead with the main suit so that no further time is lost and limitation can be the first issue but answered alongwith all other issues.

3 Defendant nos.6 and 7 have filed a notice of motion bearing no.2503 of 2012 for setting aside the order dated 11th September, 2012 passed by the Prothonotary and Senior Master, High Court, Bombay and to take the written statement dated 18th September, 2012 on record. Though nobody is present for the defendant nos.6 and 7 today and since it is stated that the written statement is already affirmed on 18th September, 2012, I am inclined to allow the notice of motion in terms of prayer clause - (a). The notice of motion accordingly stands disposed.

The defendant nos.6 and 7 to file the written statement in the registry and serve a copy thereof upon the plaintiffs within one week from today.

GENERAL

4 Mr. Parekh, counsel for the plaintiffs states that only defendant nos.9 and 10 have not filed their written statement. Mr. Bhagwat, counsel for the defendant nos.9 and 10 seeks one week time to file the written statement and serve a copy thereof upon the plaintiffs. Time granted. It is made clear that if the written statements are not filed within one week from today, the suit will proceed as undefended suit against defendant nos.9 and 10.

5 Stand over to 28th February, 2017 for issues on which date parties to come up with agreed draft issues and a separate list of issues on which they are unable to agree.

(K.R. SHRIRAM, J.)