

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

**NOTICE OF MOTION NO.2540 OF 2011
IN
SUIT NO.2097 OF 2011**

Harish S. Bhojwani

....Applicant/Plaintiff

V/s.

Vimla S. Bhojwani and Ors.

....Defendants

Mr. Ganesh Ambekar i/b. M/s. Thakore Jariwala and Associates for the applicant/plaintiff.

Mr. V.C. Muralidharan i/b. Joy Legal Consultants for the defendant no.3.

CORAM : K.R.SHRIRAM,J

DATE : 9th JANUARY, 2017

P.C.:-

1 At the outset, the counsel for the plaintiff states that the defendant no.1 expired some time ago and they came to know about the demise of defendant no.1 when the plaintiff had filed an Appeal in the connected Probate Petition against the court granting the Probate. The counsel for the plaintiff further states that the defendant nos.2,3,4 and 5 alongwith the plaintiff are the only legal heirs of defendant no.1 and there is no need to bring any other legal heirs on record. The counsel for the plaintiff, therefore, requests that the name of defendant no.1 be struck off from the array of defendants.

2 Mr. Muralidharan, counsel for the defendant no.3 has no objection. Nobody is also appearing for the other defendants though served.

3 Therefore, leave to amend by striking of the name of defendant no.1 is granted. Amendment to be carried out within one week from today.

4 This notice of motion is for appointment of the Court Receiver in respect of the estate of the deceased, who was the father of the plaintiff and defendant nos.2 to 5, together with right to take possession of all the assets, papers and documents relating thereto and to issue an order of injunction restraining the defendant nos.1 and/or
3 by themselves and/or through their servants, agents or representatives from in any manner encumbering, alienating, disposing off, parting with possession of and/or otherwise creating third party rights in respect of the properties mentioned at Exhibit 'M' to the plaint.

5 Mr. Murlidharan, counsel for the defendant no.3 states that the Appeal Court has already granted an injunction with reference to

the property mentioned in Exhibit 'M' to the plaint at serial no.I (i) and as regards the other properties, the plaintiff herein to be given advance notice of one month by the advocate for the defendants before entering into any transaction with third party.

6 In view thereof, nothing survives in the notice of motion and the notice of motion accordingly stands disposed.

7 Those defendants who have not filed their written statement shall file the written statement and serve a copy thereof upon the plaintiff on or before 31st January, 2017.

8 Suit be listed for directions on 3rd February, 2017.

(K.R.SHRIRAM,J)