

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

**NOTICE OF MOTION NO. 2716 OF 2011
AND
NOTICE OF MOTION NO. 569 OF 2012
IN
SUIT NO. 2240 OF 2011**

Usha Sunder Premises Chs.Ltd.	...Plaintiff
vs.	
Nilang Desai & Ors.	...Defendant

Mr.Snehal Shah with Ms.Deepti Panda & Kunal Parekh I/b. Thakore
Jariwala & Associates for Plaintiff.

Mr.Rohan Kelkar with Jinal Gogri with Suraj I/b. Negandhi Shah &
Himayatullah for Defendant No.1.

Ms.M.D. Lad I/b. Udaipuri & Co. for Defendant No.3.

Mr.Karl Tamboly I/b. RMG Law Associates for Defendant No.4.

CORAM : S.C. GUPTE, J.

6 JUNE 2017

P.C. :

These notices of motion are taken out for various reliefs, including an interim restraint on development / construction of / on the suit plot. On 24 October 2016, a statement was made by learned Counsel appearing on behalf of Defendant No.4 that if and when the building plans were approved, Defendant No.4 would give a notice of not less than 30 days before taking any steps in accordance with the building plans. His statement was accepted by this court and the matter was stood over.

2 Today, a grievance is made on behalf of the Plaintiffs across the Bar along with some photographs that despite this statement, Defendant

No.4 has brought machinery at site and cut some trees existing on the suit plot.

3 Learned Counsel for Defendant No.4 states that trees are cut after obtaining due permission from the tree authority and no step towards development of the suit plot in accordance with any building plan is yet taken and the Defendant has acted within the spirit of the statement made before the court on 24 October 2016. Learned Counsel for Defendant No.4 further states that as and when the building plans are approved, they would give 30 days' notice before taking any steps in the matter and shall maintain status quo at site for such 30 days.

4 In view of this statement, which is accepted by this court, the notices of motion need not be kept pending. As and when any notice is given in accordance with the statement recorded herein, the Plaintiffs would be free to adopt such interim proceedings, as they may be advised. All rights and contentions of the parties in that behalf are kept open. In case the Plaintiffs are aggrieved by any steps already taken by Defendant No.4 in respect of the suit plot in the face of his statement recorded and accepted in the order of 24 October 2016, the Plaintiffs would be at liberty to adopt such proceedings as they may be advised to do.

5 The notices of motion are, accordingly, disposed by accepting the statement made by Defendant No.4 and recorded as above.

(S.C. Gupta, J.)