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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
NOTICE OF MOTION NO. 938 OF 2016
IN
SUIT NO. 269 OF 2016

Ashok Bhopalsingh Purohit

... Applicant/Plaintiff

vs.

Shankarsingh Rajpurohit

... Defendant

Mr. Mayur Khandeparkar a/w. Ms. Neeta Solanki i/b. Ms. Preeti V. Karne for the Plaintiff / Applicant.

Mr. A. A. Pande i/b. Mr. A. R. Pande for the Defendant.

CORAM : A.K. MENON, J.

DATE : 5th JUNE, 2018

P. C.

1. By this Notice of Motion the plaintiff seeks appointment of the Court Receiver in respect of the suit property and also the usual injunction pending hearing and final disposal of the suit. Affidavit in reply has been filed dated 18th March, 2016. At the ad-interim stage vide order dated 28th January, 2016 the defendant was restrained by order and injunction from selling, alienating and encumbering, parting with possession and / or creating third party rights in respect of the suit property described therein and more particularly described in Exhibit A to the plaint.

2. Defendant was absent when that order was passed and thereafter the order of the Court was sought to be served upon him but he apparently refused to acknowledge service. The Court had directed the defendant to remain present in Court on 1st February, 2018. However, despite this direction none remained present on behalf of the defendant as a result the local police having jurisdiction over the area of residence of the defendant was directed to serve a copy of the order on the defendant and obtain acknowledgment. That was done and as a result the defendant had entered appearance.

3. The suit and notice of motion are listed today. Heard counsel for the parties. Mr. Pandey has opposed the notice of motion and the continuity of the ad-interim order on the ground that the document at Exhibit B and Exhibit C are got up document and the plaintiff cannot succeed in the suit on the basis of these documents. This is a matter to be established at the trial. As on date, there is no written statement on file and therefore contents of the plaint remain uncontroverted.

4. In my view the notice of motion can be disposed of by confirming the order dated 28th June, 2016 since the plaintiff's counsel does not press for any other relief in the motion. Accordingly the order dated 28th June, 2016 is hereby confirmed. Notice of motion disposed of in the above terms.

5. Suit to be listed for exparte decree per CMIS.

(A.K. MENON, J.)