

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

**NOTICE OF MOTION NO. 224 OF 2011
WITH
NOTICE OF MOTION NO. 1090 OF 2011
IN
SUIT NO. 126 OF 2011**

Deepak H. Mirchandani ... Applicant/Plaintiff
vs.
Mahendra H. Mirchandani and Ors. ... Defendants

**WITH
NOTICE OF MOTION (L)NO.2624 OF 2016
IN
SUIT NO. 126 OF 2011**

Deepak H. Mirchandani ... Applicant/Plaintiff
vs.
Mahendra H. Mirchandani and Ors. ... Defendants
and
Suresh H. Mirchandani and Ors. ... Respondents

Mr.R.R.Sharma for the Plaintiff/Applicant.
Mr.Avinash Joshi for Defendant Nos. 1 and 3.
Mr. Kunal Bhanage for Defendant Nos. 2 to 4.
Ms.Deepti Panda i/b Mr. Kartik Tiwari, for Mr.Javeed Jhaveri, newly
added Defendant No.6.

CORAM : S.C. GUPTE, J.

DATE : 16 JANUARY 2018

P.C. :

After the matter is heard at some length, learned Counsel for
the parties agree that the motions may be disposed of without recording

any reasons. It is accordingly ordered as follows :

(I) The two flats described in the notice of motion as Flat Nos.401 and 402 shall be segregated by erection of a wall between them. The work of erection of the wall shall be carried out by the Plaintiff at his own costs but under the supervision of an officer of the court to be appointed as commissioner for the purpose. The Prothonotary & Senior Master of this court to designate an officer of this court for the purpose. The construction work shall be carried out within a period of three weeks from today.

(II) The newly added Defendant No.6 shall continue to be in possession of Flat No.402 without prejudice to the rights and contentions of all the parties. The newly added Defendant No.6 shall deposit a sum of Rs.50 lakhs before this court within a period of three months from today. The amount paid by Defendant No.6 shall be invested by the Prothonotary & Senior Master in the Fixed Deposit of a Nationalised Bank initially for a period of thirteen months and to be renewed thereafter from time to time and to abide by further orders that may be passed in the present suit.

(III) As far as Flat No.401 is concerned, at present there are no orders being passed, since the possession of this flat is a subject matter of a dispute between the Plaintiff and DCB Bank, which is presently pending before DRAT. In case, however, the Plaintiff obtains a favourable order from DRAT in this behalf, the Plaintiff will be at liberty to apply for such orders in respect of Flat No.401 in the present suit as he may be advised.

(IV) Defendant Nos.1 and 3 as well as newly added Defendant No.6 shall not create any third party rights or part with possession of any of the suit properties. The newly added Defendant No.6 shall pay the outstandings of the society in respect of flat No.402. The co-operative society may accept these payments without prejudice to the rights and contentions of all the parties as well as co-operative society itself (Defendant No.5).

(V) All three notices of motion are disposed of in terms of the above order. No order as to costs.

(S.C. GUPTE, J.)