

Arun

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
TESTAMENTARY AND INTESTATE JURISDICTION
NOTICE OF MOTION NO. 47 OF 2018
IN
TESTAMENTARY SUIT NO. 47 OF 2016
IN
TESTAMENTARY PETITION NO. 1289 OF 2012**

Mahesh J Rathod	...Applicant
<i>Versus</i>	
Girish J Rathod & Ors	...Respondents

Mrs Rajashree Nair, *for the Applicant.*
Mr Ashish A Dubey, *for the Plaintiff / Respondent No.1.*

CORAM: G.S. PATEL, J
DATED: 24th April 2018

PC:-

1. This is an application by the original Defendant Mr Mahesh J Rathod. He says that the original Plaintiff is trying to dispose of a flat that is part of the estate of the deceased Smt Danibai J Rathod. To this Notice of Motion the cooperative society is joined as 3rd Respondent and a builder firm is joined as 2nd Respondent. There is an order of 23rd March 2016 by which the Plaintiff in the Testamentary Suit agreed to revocation of Letters of Administration with Will annexed that he had obtained. The order passed on that

date (pages 44 to 45) includes an injunction in prayer clause (b) from dealing with this very flat no.D-1/4, Navjagruti Cooperative Housing Society Ltd, Subhash Nagar, Teen Dongri, Goregaon (West), Mumbai 400 090.

2. Mr Dubey on behalf of Plaintiff states that the Plaintiff is in occupation of this flat and that he has instructions to state that the Plaintiff is not transacting that flat with any person. All that has happened is that the building has been redeveloped and a new flat has been allotted in lieu of the old flat or room No D-1/4. The statement is noted. The injunction is of course continuing and Mr Dubey states that his client is bound and will continue to be bound by it and will abide by it. That is accepted as an undertaking to the Court.

3. Beyond this no orders are required in the Notice of Motion and which is disposed in these terms. No orders as to costs.

4. In any case the society, the 3rd Respondent, is directed not to accept any application for transfer of the newly allotted flat without a specific order of the Court. Liberty to the parties to apply.

(G. S. PATEL, J)