

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

NOTICE OF MOTION NO.491 OF 2014

IN

SUIT NO.294 OF 2014

Shreeji Krupa Hotels & Properties Private Ltd. And Ors.	)	
V/s.		)....Applicants/plaintiffs
Rosy John Gomes & Ors.	)....Defendants	

WITH

NOTICE OF MOTION NO.401 OF 2014

IN

SUIT NO.818 OF 1983

Ms.Jessiemavis W.Gonsalves & Ors.	)	Applicants
-----------------------------------	---	----------------

IN THE MATTER BETWEEN :

Ajay Gokuldas Shah	)	Plaintiff
V/s.		
John Edward Gomes & Ors.	)....Defendants	
And		
Mr.Aziz H.Parpia & ors.	)....Respondents	

NOTICE OF MOTION NO.616 OF 2014

IN

SUIT NO.818 OF 1983

Ms.Jessiemavis W.Gonsalves & Ors.	)	Applicants
-----------------------------------	---	----------------

IN THE MATTER BETWEEN :

Ajay Gokuldas Shah	)	Plaintiff
V/s.		
John Edward Gomes & Ors.	)....Defendants	
And		
Mr.Aziz H.Parpia & ors.	)....Respondents	

Mr.K.T.Kukreja a/w Mr.Nilknth Gharkar I/by A.G.Manghimalani for plaintiff in Suit 818/1983 and for applicant in NMS 401/2014 and for defendant no.1 in Suit 294/2014.

Mr.Pesi Modi, Senior dvocate a/w Mr.Neville Lashkari and Ms.Radhika Shah iby Little and Co. for respondent no.3 in NMS 401/2014 and for plaintiff in Suit 294/2014.

Mr.Snehal Shah a/w Ms.Kirtida Chandaran and Ms.Dipnwita Ghosh I/by Mahernosh J.Humranwala for respondent no.1 in NMS 401/2014.

Mr.Sunil C.Patel for respondent no.2 in NMS 401/2014.

Mr.S.A.Jabbar I/by J.R.Vyas for respondent nos.6 & 7 in NMS 401/2014. for petitioner.

Mr. for respondent.

CORAM : K.R.SHRIRAM,J

DATE : 23.10.2018

P.C.:-

NOTICE OF MOTION NO.491 OF 2014

1. By consent, the order dated 17.2.2014 is confirmed as order in the Notice of Motion. Notice of Motion accordingly disposed.

NOTICE OF MOTION NO.401 OF 2014

NOTICE OF MOTION NO.616 OF 2014

1. In the order dated 21.2.2018, paragraph-4 reads as under :-

“Mr.Kukreja will need to take instructions from his clients, the Applicants, as to whether they are or are not prepare to lead evidence. If not, Mhe motion must fail for I do not see how I can conceivably address the question of signatures being taken in blank, for this is a species or variety of fraud, or the allegation of forgery absent proper evidence. If evidence is proposed to be lead, then specific directions are necessary. I am mindful that what is before me is a Motion, not a full-fledged

suit. In this Motion, very many affidavits have been filed. Therefore, it will have to be assessed as to whether these Affidavits should themselves be treated as Evidence Affidavits within the meaning of Order 18 Rule 4 of the Code of Civil Procedure 1908 or whether the Applicant should be afforded yet another opportunity of putting in an Evidence Affidavit. This is of some consequence, for, by this time the Respondents and opponents have already replied to the Motion and the Evidence Affidavit should not be used to further improve the case or expand its limits. Equally, the averments in the Affidavits may have to be directed to be treated as pleadings for the purposes of the trial in the Motion. These considerations are deferred to the next date, at Mr.Kukreja's request."

2. Mr.Kukreja states that he wishes to lead evidence. All the counsel agree that based on the affidavits filed, court can frame issues/points for determination. Counsel state that on the next date, they will come with agreed issues/points for determination and a separate list of issues on which they are unable to agree.

3. Thereafter schedule can be fixed for cross-examining the applicants' witness followed by cross-examining the witness of the other parties and defendants/respondents and the other parties in the Notice of Motion. The averments made in the affidavits filed on behalf of the applicants shall be treated as pleadings for the purposes of the trial in this Notice of Motion.

4. Stand over to 3.12.2018 for issues.

(K.R.SHRIRAM,J)