

Shephali

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
NOTICE OF MOTION NO.1394 OF 2017
IN
SUIT NO. 408 OF 2017**

Surekha Arun Rao & Anr	...Plaintiffs
<i>Versus</i>	
Sumati Govind Shirishkar & Ors	...Defendants

**Ms Pinky Bhasali, for the Applicants/Plaintiffs.
Mr Vishal C Ghosalkar, for the Defendant No. 6.**

**CORAM: G.S. PATEL, J
DATED: 11th June 2018**

PC:-

1. On 4th April 2018 I passed a preliminary decree on the Plaintiffs' Notice of Motion No. 2045 of 2017. That decree was based on certain statements made in the Written Statement. The present Notice of Motion No. 1394 of 2017 was filed and first moved before the Written Statements came to be filed. On this Motion, BP Colabawalla J made an order on 29th June 2014 in the following terms:

"The learned counsel appearing on behalf of the Defendants seeks time to file the reply. He makes a statement that as far as the Bungalow is concerned

described in Exhibit- A to the Plaint and which is an occupation of Defendant No.1, she shall not, and neither will any of the other Defendants create any third party rights and/or part with possession and/or create any encumbrance in relation to the same without the leave of the Court. This statement is accepted as an undertaking to this Court. As far as the Fixed Deposits mentioned in Exhibit-B and the necklaces described in Exhibits-C are concerned, it is the case of the first Defendant that either they solely belonging to the first Defendant or they have been gifted to first Defendant or jointly belong to the deceased and the first Defendant. In this view of the matter, there is no question of granting any ad-interim relief today for the Fixed Deposit and Investments as mentioned in Exhibit-B to the Plaint or the necklaces as mentioned in Exhibits-C to the Plaint. The Defendants are directed to file their affidavit in reply by 20th July, 2017. 2 List this Motion for hearing and final disposal on 27th July, 2017."

2. In view of these circumstances, I am inclined to make an order disposing of the present Notice of Motion confirming the order of 29th June 2017 as the final order on the Notice of Motion but also restraining Defendants Nos. 1 to 5 from obstructing or denying the 2nd Plaintiff access to the bungalow in question and from preventing her from using or occupying the bungalow. Ms Bhansali shows me a letter dated 20th July 2017 in which it is noted that previously Defendants Nos. 1 to 5 have attempted to obstruct the 2nd Plaintiff from entering the bungalow. There is no reply to this letter.

3. In view of the letter dated 20th July 2017, the order on the preliminary decree of 4th April 2018 and the submissions made today, I am making it clear that Defendants Nos. 1 to 5 cannot, without an express order of this Court obtained after at least two weeks' notice to Ms Bhansali, make any attempt of any nature whatsoever either to restrain the 2nd Plaintiff's access to the bungalow or her right to enter it, use it and occupy it.
4. The Notice of Motion is disposed of in these terms. No costs.
5. List the Suit itself for framing issues on 27th June 2018.

(G. S. PATEL, J)