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IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

NOTICE OF MOTION NO.1484 OF 2014

IN

SUIT NO.803 OF 2014

WITH

SUIT NO.803 OF 2014

WITH

NOTICE OF MOTION NO.1814 OF 2015

IN

SUIT NO.803 OF 2014

WITH

NOTICE OF MOTION NO.1765 OF 2014

IN

SUIT NO.803 OF 2014

WITH

NOTICE OF MOTION NO.1357 OF 2017

IN

SUIT NO.803 OF 2014

WITH

NOTICE OF MOTION NO.1398 OF 2017

IN

SUIT NO.803 OF 2014

Uday D. Nayak And 3 Ors.

...Plaintiffs

vs

Dattatray D. Nayak And 10 Ors.

...Defendants

.....

Mr. Farhan Dubash, Counsel, a/w. Mr. Melvyn Fernandes and Mr. Jineshkumar Gandhi, i/b. Vaish Associates, for the Plaintiffs.

Ms. Saloni C. Sathe, i/b. Tejas H. Bhatt, for Defendant Nos. 1, 2 and 3.

Mr. Mikhail Behl, i/b. Mr. S.K. Saxena, for Defendant Nos. 4 to 10.

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CORAM : S.C. GUPTE, J.

DATED : 13 FEBRUARY, 2018

P.C. :

. Notice of Motion No.1484 of 2014 is the main notice of motion taken out in this suit by the Plaintiffs for interim reliefs. The suit is for partition of joint family property. At present, there is a statement recorded on the part of Defendant Nos.1 to 3, 4, 6 and 8 that their clients shall not create any third party rights and/or other rights in respect of the properties described in Exhibit 'B' to the plaint. Learned Counsel for these Defendants and Defendant Nos. 5, 7, 9 and 10 as well as the Plaintiffs have no objection to this statement being continued as an interim order in this suit, save and except in respect of one property, which is described at Sr. No.4 of Exhibit 'B' to the plaint. Defendant Nos. 4 and 7 have taken out two separate notices of motion, being Notice of Motion No.1398 of 2017 and 1357 of 2017, for vacating their ad-interim statement insofar as this property is concerned. It is not in dispute that this property is a joint family property, the shares of individual properties being admitted. Accordingly, there should be no difficulty in allowing these Defendants to create third party rights in this particular property to the extent of their respective undivided shares therein. The Defendants, however, shall be bound to intimate the particulars of such transaction to the Court as well as the other contesting parties to the suit, as and when they dispose of their respective undivided interest.

2. As far as Notices of Motion Nos. 1814 of 2015 and 1765 of

2016 are concerned, these are for deletion of the respective Defendants, who have taken out these notices of motion. Learned Counsel for these Defendants submits that their clients are not interested in pressing these notices of motion.

3. All these notices of motion are disposed of in the following manner:

(a) These notices of motion are disposed of by accepting the statement on the part of Defendant Nos. 1 to 10, as recorded in the order dated 18 July 2014, save and except the statement on the part of Defendant Nos. 1 to 10 with respect to their respective shares in the property, described at Sr. No.4 of Exhibit 'B' to the plaint. These Defendants will be entitled to dispose of their respective undivided shares in this property. They shall, however, intimate the particulars of the transaction, as and when they dispose of their respective shares to the Court and to the other contesting parties.

(b) Notice of Motion No.1814 of 2015 is dismissed, as not pressed.

(c) Notice of Motion No.1765 of 2016 is dismissed, as not pressed.

(d) Notices of Motion Nos.1357 of 2017 and 1398 of 2017 are disposed of without any orders, since the grievance of the respective Applicants in these notices of motion has been addressed in terms of the directions in clause (a).

(e) No order as to costs.

(f) Since all the interlocutory matters in the suit are now disposed of and the suit is ripe for hearing with all parties having filed their respective written statements, place the suit for framing of issues on 8 March 2018.

(g) The suit to be shown on the board along with Leave Petition No.104 of 2014.

(S.C. GUPTE, J.)