

Arun

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
NOTICE OF MOTION NO. 1642 OF 2011
IN
SUIT NO. 1165 OF 2011

Inder K Ahuja & Ors

...Applicants/
Plaintiffs

Versus

Gopaldas K Ahuja & Ors

...Defendants

Mr Sandesh Shukla, with ms Purvi Jain, i/b Sonu Tandon, for the
Applicants/Plaintiffs.

Mr AR Dwivedi, i/b M/s Lambay & Company, for Defendant No.1.

Mr Ganesh Ambekar, i/b T Jarimala & Associates, for Defendant
No.2.

CORAM: G.S. PATEL, J
DATED: 17th July 2018

PC:-

1. The Suit is for administration of the estate of Mr Kishandas Ahuja who died on 28th June 2006. Previous attempts at mediation have not succeeded. The Suit and the Notice of Motion have been pending since 2011. Prayers (a) and (b) are directed against Defendants Nos. 7 and 8 requiring them to deposit in this Court certain amounts for letting out properties listed at Serial Nos., respectively, (iii) and (i) of Exhibit "C" to the Plaint.

2. Having regard to the quite considerable passage of time during which there has been no protective order, I do not see how it is possible to pass an order at this stage, let alone now impose an order of a Receiver in respect of the suit properties that are listed at Exhibit “C” to the Plaint.

3. In my view, the rival contentions and rights are sufficiently balanced by a direction that Defendants Nos. 1 to 10 shall respectively keep accounts of all their dealings of all items in the estate of the deceased from the date of death of the deceased. The Defendants Nos. 7 and 8 will separately, and in addition, maintain accounts in respect of any properties that have been let out or sub-let by them.

4. My attention is in the meantime drawn to Exhibit “E” to the Plaint at page 50 which shows the respective shares of Defendants Nos. 1, 2 and 5 and Plaintiffs Nos. 1, 2, 4 and 5 in the estate of the deceased. This is said to be a share in the estates of Kishindas Ahuja and his wife Ramdevi as well. I do not believe there can be much dispute about this. Having regard to the position of the parties, all family members, in my view it would be in the interest of all to have a preliminary decree declaring the shares of the parties and then to refer the matter to the Commissioner of Taking Accounts for a valuation of the assets. Before that, I will undoubtedly hear the parties on what does or does not fall within the estate of the two deceased persons.

5. While the Notice of Motion is disposed of in terms aforesaid, list the Suit itself for directions on 1st August 2018, when all Defendants will take instructions on the question of the exact amount of their respective shares and whether or not they accept the distribution and shares as listed in Exhibit “A” at page 50 to the Plaintiff.

(G. S. PATEL, J)