

Atul

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
NOTICE OF MOTION NO. 5 OF 2018
IN
PARSI SUIT NO. 10 OF 2017**

Omeed Aspandiar Saroshian	...Plaintiff
<i>Versus</i>	
Kaizeen Omeed Saroshian	...Defendant

None for the Plaintiff.
Ms Sanobar Nanavati, i/b Udayan Shah, for the Defendant.

CORAM: G.S. PATEL, J
DATED: 30th October 2018

PC:-

1. This is a Notice of Motion by the Plaintiff-husband seeking to prevent his wife, the Defendant from dispossessing him from Flat No. 405, Building No. A2, Pantakhi Baug, Opposite Vishal Hall, Near Andheri Railway Station, Andheri (East), Mumbai 400 099 and to restrain the Defendant-wife from damaging what are described as the properties “movable and immovable which are in the flat and/or appurtenant to the aforesaid flat”. I do not know what prayer clause (b) is supposed to mean, if anything. I do not know how there can be immovable property ‘in a flat’ and there is

description whatsoever of any immovable property can be said to be “and/or” or “and” or even “or” appurtenant to that flat.

2. As to prayer clause (a), both parties seem to be living in that flat. The Defendant does not dispute that the Plaintiff is sole owner of the flat in question. There is no question of her creating any third party rights.

3. The Defendant is present in Court and is represented by Ms Nanavati. She makes a statement as she has in her Affidavit in Reply, to which there is no Rejoinder, clearly said that there is no question of the Defendant dispossessing the Plaintiff from the flat. She makes it clear that the flat is her matrimonial home and that the Defendant is very much using it as such.

4. None for the Plaintiff. The Notice of Motion is dismissed.

5. No application for restoration of the Notice of Motion or recall of this order will be entertained without at least two weeks’ prior notice to the Advocate on record for the Defendant.

6. Time to the Defendant to file Written Statement is extended till 10th December 2018.

(G. S. PATEL, J)