

IN THE HIGH COURT OF JUDICATURE AT BOMBAY**ORDINARY ORIGINAL CIVIL JURISDICTION****NOTICE OF MOTION NO.1530 OF 2013****IN****SUIT NO.810 OF 2013****WITH****NOTICE OF MOTION NO.1505 OF 2015****IN****SUIT NO.810 OF 2013**

Gujarat State Fertilizers And Chemicals Limited ... Plaintiff

Versus

Dr. Mahendra Kumar Modi And Anr. ... Defendants

.....

Mr. Shyam Kapadia, i/b. Negandhi Shah & Himayatullah, for the Applicant/Plaintiff.

Ms Neha Shah, i/b. M.S. Bodhanwalla & Co., for Defendant No.1.

Mr. Sunil Dond, Section Officer from Court Receiver present.

.....

CORAM : S.C.GUPTE, J.**DATED : 10 OCTOBER 2018****P.C.:**

. This notice of motion is taken out by the Plaintiff in a suit seeking enforcement of a mortgage in respect of the suit property. By an order dated 1 October 2015, with detailed reasons, ad-interim Court Receiver was appointed in respect of the suit flat. The Receiver was directed to let out the flat to a third party as agent of the Court Receiver upon payment of security and royalty. Though the flat is taken possession of by the Court Receiver in pursuance of that order, the same could not be licensed by the receiver to any third party on account of disconnection of

electricity to the flat for non-payment of the dues of the electricity company. The Court is informed that only a few days back these dues have now been paid by the Applicant herein. It appears that there are some leakages in the suit flat and after restoration of electricity, some work needs to be carried out. It appears that the Advocates of Defendant No.1 have requested the Court Receiver to handover keys of the suit flat for a few days so as to enable them to carry out the work. The Court Receiver may handover keys of the suit flat to Defendant No.1 for the work of repairs/restoration. The work shall be completed within two weeks after handing over of the keys. After completion of the work, the keys shall be returned to the Court Receiver.

2. No final order was passed earlier in the matter, since there were objections to the jurisdiction of the Court and a preliminary issue under Section 9A of the Code of Civil Procedure was to be framed. Since Section 9A is no longer on the statute book by virtue of Amending Act of 2018, there is no reason why this notice of motion should be kept pending. The ad-interim order passed by this Court on 1 October 2015 is, accordingly, confirmed. It shall operate pending the hearing and final disposal of the suit. The Court Receiver is directed to comply with the directions of this Court concerning the agency to be created in respect of the suit flat after the repairs/restoration work is completed. The notice of motion is, accordingly, disposed of.

(S.C.GUPTE, J.)