

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION**

**NOTICE OF MOTION NO.1233 OF 2015
IN
SUIT NO.618 OF 2015**

Sandhya Ramesh Advani And Others ... Applicants

In the matter between

Sandhya Ramesh Advani And Others ... Plaintiffs
Versus

Govind Hardasmal Advani And Others ... Defendants

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Mr. Anuj Narula a/w Meena Bhatta I/b Jhangiani Narula & Associates for the Applicants/Plaintiffs.

Mr. Abhishek Gupta I/b Mr. A.M. Saraogi for Defendant Nos. 1 And 2.

Mr. Vivek Kantawala a/w Mr. Amey Patil I/b M/s Vivek Kantawala & Co. for Defendant Nos.3 And 4.

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CORAM : S.C.GUPTE, J.

DATE : 18 JANUARY 2018

P.C. :

. The present Notice of Motion is taken out in a partition suit. The Plaintiff claims to be a co-owner of the suit property having 1/3rd share therein along with Defendant Nos.1 and 2. It is her case that Defendant No.1 has wrongfully transferred the suit property to Defendant No.3; such transfer is not binding on the Plaintiffs. Defendant No.3 claims to be in possession of the suit property as an owner thereof. The notice of motion seeks an interim injunction against the defendants from creating third party rights or parting with possession thereof. A statement was made on

behalf of Defendant No.3 by Defendant No.4 that pending the hearing and final disposal of the notice of motion, she will not sell, dispose of, alienate, encumber, part with the possession or create any third party rights in respect of the suit flat, which was recorded in the order dated 4 August 2015. Learned Counsel for Defendant No.3 and 4 states that his clients do not propose create any third party rights as of now and are agreeable to continue that statement pending the hearing and final disposal of the suit. Defendant No.4 is present in Court today and stands by his statement. The statement is accepted. Defendant No.5, which is the society, in whose building the suit flat is situate, also had made a statement likewise not to effect any transfer of the suit flat in favour of any party without the leave of the Court. Defendant No.5 society is not present today before the Court. In keeping with the statement by Defendant No.5 and which is recorded in the order dated 4 August 2015, Defendant No.5 is restrained pending the hearing and final disposal of the suit from effecting the transfer of the suit flat in favour of anyone without the leave of the Court. The notice of motion is disposed of in the above terms.

2 It is clarified that the motion is disposed of insofar as Defendant Nos.3 and 4 are concerned on the basis of their statement before the Court. In case these Defendants propose to create any third party rights in future in respect of the suit property, they may move the Court for variation of this order with minimum one week's notice to the Plaintiffs and other contesting parties. Such application shall be decided on its merits. All rights and contentions of the parties in that behalf are kept open.

3 Since written statements are filed by all Defendants in the present suit, let the Suit be placed on board for framing of issues on 8 February 2018.

(S.C. GUPTE, J.)