

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
NOTICE OF MOTION NO.152 OF 2015
in
SUIT NO.33 OF 2015

Radhika Shyamsunder Advani .. Applicant

IN THE MATTER BETWEEN

Radhika Shyamsunder Advani .. Plaintiff

vs.

Ravi Vishnu Shivdasani .. Defendant

with **NOTICE OF MOTION NO.2408 OF 2016**
in
SUIT NO.33 OF 2015

Ravi Vishnu Shivdasani .. Applicant

IN THE MATTER BETWEEN

Radhika Shyamsunder Advani .. Plaintiff

vs

Ravi Vishnu Shivdasani .. Defendant

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Mr.Amey Patil I/b Mr.Mohan Shetty for Plaintiff
in S/33/2015 (Applicant in NMS/152/2015 (Respondent) in
NMS/2408/2016
Ms.Riddhi D.Shah for Defendant/Applicant in NMS/2408/2016

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CORAM : S.C.GUPTE J.

DATE : 17.04.2018.

P.C.

1. This Suit is for partition of immovable property. The property consists of two flats described in Schedule I and II in Exhibit A to the plaint. It is the case of the plaintiff that these flats were owned by the predecessors of the parties, namely, their

parents, and the plaintiff has ½ share in the suit property including these two flats. The writ of summons was duly served on the defendant. Despite such service, there has been no written statement on record. As a result, the suit has been transferred to the list of un-defended suits. Notice of motion No.152 of 2015 is the plaintiff's motion for interim relief for protection of the suit properties, while Notice of Motion no.2408 of 2016 is the defendant's motion for recall of the order transferring the Suit to the list of un-defended suits and for condonation of delay in filing the written statement.

2. As far as the plaintiff's motion is concerned, learned counsel for the defendant makes a statement that her client shall not dispose of either of the two flats described in Schedule I and II in Exhibit A pending the hearing and final disposal of the Suit without seeking further orders from the Court. In view of this statement, which is accepted by the Court, learned counsel for the plaintiff does not press for further relief in his notice of motion. The plaintiff's motion is accordingly disposed of by accepting the defendant's statement as above.

3. For reasons stated in the affidavit- in-support of Notice of Motion No.2408 of 2016, the order transferring the Suit to the

list of un-defended suits is recalled and set aside. The delay in filing the written statement is condoned. Learned counsel for defendant tenders her client's written statement. The same is taken on record.

4. Notice of motion no.2408 of 2016 is accordingly disposed of.

(S.C.GUPTE J.)