

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

**NOTICE OF MOTION NO.100 OF 2017
IN
SUIT NO.46 OF 2017**

Deepak Ravji Chheda)....Plaintiff/Applicant
V/s.

Ashwin Ravji Chheda & Ors.)....Defendants

Mr.Piyush M.Shah for plaintiff/applicant.
Mr.Sriraj G.Menon for defendant no.1.
Ms.Manisha A.Bhatia for defendant no.4.

**CORAM : K.R.SHRIRAM,J
DATE : 27.11.2018**

P.C.:-

1. Counsel for defendant no.1 states that he has not been receiving instructions and has filed chamber order for discharge. Mr.Shah for plaintiff states that defendant nos.2, 3, 5 & 6 have been served this Notice of Motion and in fact, defendant nos.2 & 3 had even appeared on 10.1.2017. They are not present today.

2. As regards defendant nos.5 & 6 are concerned, Mr.Shah states that they have been served on 17.1.2017 and undertakes to file affidavit of service within two weeks from today. Undertaking accepted.

3. Mr.Menon for defendant no.1 has nothing to add since he has applied for discharge.

4. Ms.Bhatia for defendant no.4 and Mr.Shah for plaintiff state that the order dated 10.1.2017 be confirmed as order in the Notice of Motion against all defendants including defendant nos.5 & 6 who have not filed any affidavit in reply opposing the Notice of Motion.

5. In the circumstances, order dated 10.1.2017 is confirmed as order in the Notice of Motion. The status-quo order shall also be extended to defendant nos.5 & 6.

6. Notice of Motion accordingly stands disposed.

7. Mr.Shah states that defendant nos.5 & 6 have never appeared and yet to be served with writ of summons. It is rather shocking that though defendant nos.5 & 6 were added pursuant to an order dated 10.1.2017 and for almost 20 months, plaintiffs have not even bothered to apply for issuance of writ of summons against defendant nos.5 & 6. Writ of summons to be served upon defendant nos.5 & 6 through the usual mode within 4 weeks from today as well

as by personal hand delivery and affidavit of service filed, failing which suit will stand dismissed as against defendant nos.5 & 6 without further reference to the court.

8. Defendants who have already been served copy of the plaint, viz. Defendant nos.1 to 4, shall file written statements within 30 days from today.

9. Suit be listed for directions on 22.12.2018.

(K.R.SHRIRAM,J)