

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

**NOTICE OF MOTION NO. 167 OF 2016
IN
SUIT NO. 968 OF 2015**

Nalini Vaman Mathkar & Ors.	...Plaintiffs
Vs.	
Uday V. Mathkar	...Defendant

Mr.Karl Tamboly with Anuj Desai, Ms.A. Agrawal I/b. Jaykar & Partners for Plaintiffs.
Mr.Jayant Gaikwad for Defendant.

CORAM : S.C. GUPTE, J.

DATE : 7 FEBRUARY 2018

P.C. :

The present notice of motion is taken out in an administration suit. Administration is sought to the estate of the deceased Vaman Shankar Mathkar. The Plaintiffs are, respectively, widow and three daughters of the deceased, whilst the Defendant is the son of the deceased. The Defendant claims to be a nominee in respect of the suit property.

2 Learned Counsel for the Defendant states that since the suit property is presently occupied by his mother, Plaintiff No.1 herein, he does not intend to create any third party rights so long as his mother continues to occupy the suit flat. The statement is accepted.

3 Learned Counsel for the Plaintiffs submits that not only is Plaintiff No.1 in possession of the suit flat but the suit flat is also occupied by Plaintiff No.4. This position is contested by the Defendant. Anyway, in

view of the statement of the Defendant, which is accepted by the court, there is no need to consider any interim relief as of now. There is also a prayer for disclosure of the estate of the deceased held by the Defendant. Learned Counsel for the Defendant states that besides the suit flat, he does not hold any other item forming part of the estate of the deceased.

4 The notice of motion is disposed of.

5 Considering the age of Plaintiff No.1 and the relations between the parties, the hearing of the suit is expedited. Since written statement has already been filed by the Defendant, let the suit come up for framing of issues on 8 March 2018. It is agreed between the parties that the issue of limitation raised by the Defendant in his reply to the notice of motion may be considered and decided in the suit either with all other issues or as a preliminary issue under Order 14 Rule 2 of the CPC, as may be decided by the court.

(S.C. GUPTE, J.)