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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
O. O. C. J.**

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**NOTICE OF MOTION NO. 242 OF 2012
IN
SUIT NO. 4 OF 2012**

Naigaon CHS Ltd. ...Plaintiff
VS
Gajanan Ramakant Desai & Ors. ...Defendants

.....
Ms Manjiri Parasnis for the Applicant/Plaintiff.
Mr Gajanan R. Desai, Defendant No.2 present in person.
Mr Ajit Kocharekar for Defendant Nos. 4 to 6.
Mr Shriram Redij for Defendant Nos. 8 to 22.
Mr D.S.Shingade for Defendant No.23 – M.C.G.M.

.....
**CORAM : B. P. COLABAWALLA, J.
AUGUST 27, 2019.**

P.C. :

This Notice of Motion has been filed seeking to restrain defendant Nos.1 to 7 from claiming to be the landlords and or claiming any right either as owner or as leasee of the suit property, namely, Plot Nos. 60D and 60F, Sadanand Mohan Jadhav Marg, Dadar, Mumbai - 400 014 and Dulaba Prasad the building standing thereon as more particularly described in paragraph 3 of the plaint. This suit has a very checkered history and there have been multiple proceedings that have been filed between the parties and which are referred to and relied upon in the plaint. In fact, in paragraph XX of

the plaint it is clearly stated that there are two Writ Petitions that are pending in this Court especially with reference to the jurisdiction of the Co-operative Court. Outcome of these Writ Petitions, at least to my mind, will have a hearing on the present suit. It is, in these circumstances that, I inquired from defendant No.2 who appears in person, as well as defendant Nos.4 to 6, as to what is the status of the suit property as on today. I am informed that all the tenements in the building known as Dulaba Prasad, with exception of the tenement in occupation and possession of defendant No.20, are in possession and occupation of defendant Nos.1 to 7. I, therefore, feel that till the outcome and decision in Writ Petition No. 899 of 2005 and or Writ Petition No. 9540 of 2005 and to ensure that no further complications takes place especially considering the long and checkered history of litigation between the parties, defendant Nos. 1 to 7 be restrained from creating any third party rights and or interest in respect of the tenements that are in their possession. It is accordingly so ordered.

2 Defendant Nos.1 to 7 are at liberty to apply to this Court for a modification of this order once the final decision is rendered in Writ Petition No. 899 of 2005 and or Writ Petition No. 9540 of 2005. The above Notice of Motion is disposed of in the aforesaid terms. However, in the facts and circumstances of the case, there shall be no

order as to costs.

3 I am informed that defendant No.8 has expired and his legal heirs have already been brought on record. Mr Shriram Redij, advocate states that he shall be filing his Vakalatnama on behalf of the heirs of deceased defendant No.8. He undertakes that his Vakalatnama shall be filed within a period of one week from today. The said statement is accepted.

(B.P.COLABAWALLA, J.)