

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

NOTICE OF MOTION No.444 of 2019.
IN
SUIT No. 1695 of 2012.

Asoo K. Nihalani .. Applicant/Orig.Plaintiff.

In the matter between :-

Asoo K. Nihalani ..Plaintiff.
Vs
Shekhar Dadarkar & Anr ..Defendants.

Mr. Deepak Thackrey a/with Adv. Prerna Lalchandani for Plaintiff.
Mr. Nikhil a/with Aditi Jadhav I/by K.K. Tiwari for respondent No.1.
Mr. Viraj Maniar a/with Ms. Hema Chhabra I/by Maniar Srivastava &
Associates for Defendant No. 3 and 4.

CORAM : B. P. COLABAWALLA, J.
DATED :-18th February, 2019.

P.C. :

1. This notice of motion has been filed on behalf of the plaintiff to permit the plaintiff to withdraw the original documents produced at serial Nos.12 and 13 of the compilation of documents filed by him in this Court on 18th April, 2017. These documents have been executed between the plaintiff, defendant No.1 and some third party.

2. The learned Advocate appearing on behalf of defendant No.1

has fairly stated that Defendant No.1 has no objection if the plaintiff is permitted to withdraw these original documents considering the fact that the execution as well as the contents of these documents are admitted by defendant No.1, but subject to what is stated in Order 13 Rule 9 of the Code of Civil Procedure, 1908.

3. In these circumstances, the following order is passed:-

(i) The plaintiff is permitted to withdraw the document annexed at serial No.12 of the plaintiff's compilation being the original agreement dated 19th December, 2014 executed between defendant No.1 and Mr. Hitesh Nihalani (the son of the plaintiff) in respect of flat in "A" Wing of a building known as "Ekta Suprabhat";

(ii) Similarly, the plaintiff is allowed to withdraw the document at Serial No.13 of his compilation being the original agreement dated 19th December, 2014 between the plaintiff and Mrs. Chandra Nihalani (wife of the plaintiff) and defendant No.1 in respect of a flat in "A" Wing of a building known as "Ekta Suprabhat";

(iii) The plaintiff shall be allowed to withdraw the

aforesaid two original agreements only on replacing them in the record of this Court with true certified copies thereof. The plaintiff shall further undertake to produce the said original documents, if required by this Court in the future;

(iv) This undertaking shall be given in writing within a period of one week from today;

4. It is clarified that it is only after the true certified copies and undertakings as mentioned above are furnished, will the plaintiff be allowed to withdraw the above mentioned two original agreements.

5. The notice of motion is disposed of in the aforesaid terms. However, there shall be no order as to costs.

(B.P. COLABAWALLA, J.)