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

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**NOTICE OF MOTION NO. 1102 OF 2012
IN
SUIT NO. 1019 OF 2012**

Khar Adelmar Co-op.HSG Ltd. & Ors. ...Plaintiffs
VS
Morison Corporation & Ors. ...Defendants

.....
Mr Amogh Singh a/w Mr Laxminarayan Shukla I/b M/s Legal Vision
for the Applicants/Plaintiffs
Ms Manjiri Parasnis for Defendant Nos.2 and 3.
Mr Sagar Patil for defendant Nos.6 and 7.
.....

**CORAM : B. P. COLABAWALLA, J.
AUGUST 13, 2019.**

P.C. :

When this Notice of Motion was called out, the learned advocate appearing on behalf of the plaintiffs has fairly stated that he is only pressing this Notice of Motion in terms of prayer clauses (b) and (d) thereof.

2 As far as prayer clause (b) is concerned, it seeks an injunction against defendant No.5 restraining him from dealing with, disposing of, alienating and or encumbering the suit area with any third party in any manner whatsoever. The suit area is more particularly set out in paragraph 3(c) of the plaint. It has been

brought to my notice that defendant No.5 has throughout not appeared in the present proceedings. No appearance on his behalf, either in the suit or in the Notice of Motion, is shown. In fact, by an order dated 30th August, 2013, passed by the Prothonotary and Senior Master of this Court, the suit against defendant No.5 is transferred to the list of undefended suits.

3 In these circumstances, I do not see any impediment in granting interim relief in terms of prayer clause (b) against defendant No.5 which reads thus-

“(b) That pending the hearing and final disposal of the suit, the defendant No.5 his servants, agents and or any person claiming by through under or in trust of him be restrained by an order of injunction of this Hon'ble Court from in any manner dealing with, disposing of, alienating and/or encumbering the suit area with any third party in any manner howsoever.”

4 As far as prayer clause (d) is concerned, in light of the affidavit filed by defendant Nos.6 and 7 (MCGM), the question of granting any relief against the said defendants cannot and does not arise. The Notice of Motion is accordingly disposed of. No order as to costs.

(B.P.COLABAWALLA, J.)