

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

**NOTICE OF MOTION NO. 1100 OF 2013
IN
SUIT NO. 564 OF 2013**

Jivraj Ugamshi RevarApplicant

In the matter between :-

Jivraj Ugamshi RevarPlaintiff

V/s.

Mahendra Ugamshi Revar and anr.Defendants

Mr. G.S. Bhatt for the plaintiff.

None for the defendants.

**CORAM: SMT. ANUJA PRABHUDESSAI, J.
DATED : 05th APRIL, 2019.**

P.C.:

. The plaintiff has filed a suit for declaration that the defendants have no right of whatsoever nature to occupy Flat No.14/373. The plaintiff no.1 and defendant no.1 are brothers. The dispute is in respect of the Flat No.14/373 situated at Bharadwaj Co-operative Housing Society Ltd., New MIG Colony, Bandra (East), Mumbai – 400 051.

2. The records prima facie reveals that the father of the plaintiff and the defendant no.1 had gifted the said flat to the plaintiff by Gift Deed dated 16/10/2003 which has been duly registered. The father of the

plaintiff had also executed the will dated 23/01/2003 bequeathing the suit flat in favour of the plaintiff herein. Subsequently, the father of the plaintiff and the defendant no.1 had filed a suit for cancellation of the Gift Deed. The said suit has been dismissed and the appeal has been admitted and is pending hearing.

3. The learned counsel for the plaintiff concedes that the defendants are in possession of the suit flat. His apprehension is that the defendants may transfer, alienate or create third party rights in respect of the suit premises.

4. The records reveals that on 05/08/2013, the defendant no.1 had made a statement that he would not sell, alienate or create third party interest or encumbrance in respect of the suit flat. Subsequently, the defendant no.1 has failed to remain present and has not contested the proceedings.

5. Considering that the suit flat was owned by the father of the plaintiff and the defendant no.1 and that the plaintiff and defendant no.1 have raised dispute as regarding the title of the property, in my considered view, it would be just and proper that the status quo be

maintained in respect of the suit flat. Hence, the defendants are restrained from selling, alienating or parting with possession or creating any third party rights or encumbering in any manner in respect of the suit flat i.e. flat No.14/373 till the hearing and final disposal of the suit.

6. Notice of Motion stands disposed of in the above terms.

(SMT. ANUJA PRABHUDESSAI, J.)