

Urmila Ingale

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
NOTICE OF MOTION NO. 1367 OF 2013
IN
SUIT NO. 2547 OF 2012

Taragauri Dhirajlal Shah .. Applicant

In the matter between

Taragauri Dhirajlal Shah ..Plaintiff

Vs.

Practical Properties Private Limited and anr. .. Defendants

Mr.Akshay Patil a/w Mr.Karen D'Souza I/b India Law Alliance,
for the Applicant/Plaintiff.
None for the Defendants.

CORAM : B.P. COLABAWALLA, J.

DATE : 14th FEBRUARY, 2019

P.C. :

. This Notice of Motion has been filed seeking appointment of a Court Receiver in relation to the suit premises as well as restraining the Defendants from selling/transferring/encumbering and/or creating any charge or third party interest in relation thereto.

2. When this Notice of Motion was moved for ad-interim reliefs, this Court, by its order dated 26/11/2013, ordered that the first defendant shall maintain status-quo as of that date in respect of the 7th floor of the suit premises. Today, when the Motion is on Board for hearing, learned Advocate appearing on behalf of the Plaintiff has pressed for appointment of the Court Receiver. After hearing him for some time, I do not think that this is a fit case where the Receiver ought to be appointed. Though, Defendant No.1 has not filed any affidavit-in-reply to this Notice of Motion, it has filed a detailed written statement.

3. Apart from taking several objections with reference to the maintainability of the Suit as well as appointment of the Court Receiver, it is the case of Defendant No.1 that the Plaintiff was very well aware of the construction of the additional 7th floor in the building known as 'Jaikrishna Complex'. It is the case of Defendant No.1 that the Plaintiff had given the necessary permissions to her son-in-law – Mr.Shailesh D.Shah (Defendant

No.2 herein) to construct the additional 7th floor in the said building, who thereafter on behalf of the Plaintiff negotiated with Defendant No.1 to sell the 7th floor to Defendant No.1 for consideration of Rs.31,00,000/-. An agreement to that effect was also executed on 11/11/2009 (Exhibit 'I' to the Plaint). Defendant No.1, admittedly, is in occupation of these premises pursuant to this agreement. Defendant No.2, who is son-in-law of the Plaintiff, has also reiterated the stand taken by Defendant No.1. It is not in dispute that Defendant No.2 and Defendant No.1 are in no way related. In these circumstances, I do not think that this is a fit case where the Receiver ought to be appointed.

4. In these circumstances, the Notice of Motion is disposed of by confirming the ad-interim order passed by this Court on 26/11/2013, wherein it was ordered that Defendant No.1 shall maintain status-quo in respect of 7th floor of the suit premises. This order shall continue till the hearing and final disposal of the Suit.

5. The Notice of Motion is accordingly disposed of. No order as to costs.

(B.P. COLABAWALLA J.)