

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

NOTICE OF MOTION No. 170 of 2014

IN

SUIT No. 105 OF 2014

Meena Shah .. Applicant.

In the matter of:-

Meena ShahPlaintiff

Vs

Shree Sejal Construction

Private Limited and Ors .. Defendants.

NOTICE OF MOTION No. 433 of 2016

IN

SUIT No. 659 OF 2014

Smt. Asha Sudhir Jasani & Ors .. Applicants.

In the matter of:-

Smt. Asha Sudhir Jasani & OrsPlaintiffs.

Vs

Shree Sejal Construction

Private Limited and Ors .. Defendants.

WITH

NOTICE OF MOTION No. 483 of 2014

IN

SUIT No. 949 OF 2013

Suresh Jasani & Ors .. Applicants.

In the matter of:-

Suresh Jasani & OrsPlaintiffs.
Vs
Shree Sejal Construction
Private Limited and Ors .. Defendants.

Mr Piyush Raheja a/with Mr. Chetan Yadav, Mr. Samarth Patel I/by M/s Markand Gandhi & Co. Advocate for the the Plaintiffs.

Mr. Yogesh N. Adhia for Defendant Nos. 1 and 2.

Mr. D.S.Shingde, Advocate for Defendant No.3 in NMS/170/2014 and Defendant No.4 in NMS/483/2014 in S/949/2013.

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CORAM : B. P. COLABAWALLA, J.
DATED :- 7th March, 2019.

P.C. :-

1. Notice of Motion No.433 of 2016 is not on board. By consent of parties, it is taken on board.

2. All these Notice of Motions have been filed seeking the following reliefs:-

(a). pending the hearing and final disposal of the above suit, the Court Receiver, High Court, Bombay be appointed as Receiver of the suit property with all powers under Order 40 Rule 1 of Code of Civil Procedure, 1908 including the power to take over physical possession of the suit property from defendants and/or any other person or persons claiming possession thereof;

(b). pending the hearing and final disposal of the present suit, the Defendant Nos. 1 to 2 and/or its agents, assigns, servants or any person claiming through them be restrained by an order and injunction of this Hon'ble Court from;

(i.) continuing and/or in any manner carrying any Development Work or Construction Work, on the suit property described in Exhibit "A" to the Plaint on the basis of the suit agreements more specifically the Development Agreement dated 1st August, 1985, and the Powers of Attorney or otherwise;

(ii) transferring/creating third party rights in respect of the suit property described in Exhibit-A to the Plaint and/or constructions carried out on the suit property or any other part thereof in favour of any persons, institutions by any act, deed and things and/or parting with possession thereof;

(iii). making applications, submitting plans and/or acting in furtherance to the development work on the suit property or any part thereof;

(c). pending the hearing and final disposal of the above suit, the Hon'ble Court by its order:

(i) direct the Defendant No.3 to forthwith issue stop work notice to the Defendant No.1 from carrying out any construction on the suit property;

(ii) restrain Defendant No.3 from granting any further permission to the Defendant No.1 for carrying out any further construction on the suit property;

(iii) direct the defendant No.3 to produce the entire records pertaining to all applications made, plans submitted in respect of the suit property.

3. The learned Advocate appearing on behalf of defendant Nos. 1 and 2 has fairly stated on instructions that without prejudice to their rights and contentions interim relief can be granted in terms of the prayer clauses (b) (i) and (b) (ii) of the Notice of Motion. The learned Advocate appearing on behalf of the

plaintiff has also sought to press for interim relief in terms of prayer clause (b) (iii). Once defendant Nos. 1 and 2 have submitted to interim relief in terms of prayer clause (b) (i) and b (ii), I do not think that there is any necessity to grant the reliefs in terms of prayer clause (b) (iii). It is therefore rejected. It is therefore ordered that there shall be interim relief in terms of prayer clause b (i) and b (ii) reproduced herein above.

4. I must mention that by an ad-interim order passed in Notice of Motion No. 483/2014 [Notice of Motion (Lodging) No. 2115 of 2014] dated 25th October, 2013 and ad-interim order dated 29th April, 2014 passed in Notice of Motion No. 433 of 2016 [Notice of Motion (Lodging) No. 993 of 2014] this Court had inter alia ordered that in the event of any of the parties to the suit seeking inspection of the records in respect of the suit property, maintained by the Municipal Corporation, the Corporation shall give inspection of the same and also provide copies of the same to the parties upon payment of necessary charges within a period of two days from the date of receipt of such request. It was further ordered that a copy of the aforesaid request sent to the Corporation by any party and also the particulars of the appointment fixed by

the Corporation for inspection be forthwith conveyed to the advocates for the other side to enable them to remain present at the time of inspection. This portion of the ad-interim orders dated 25th October, 2013 and 29th April, 2014 are also confirmed.

5. All the Notice of Motions are accordingly disposed of. No order as to costs.

(B.P. COLABAWALLA, J.)