

MHCC010018592022



**IN THE BOMBAY CITY CIVIL COURT AT BOMBAY.
NOTICE OF MOTION NO.657 OF 2022
IN
S. C. SUIT NO.181 OF 2022**

1. Bhalchandra Narayan Chitre)..Plaintiff

Versus

1. Mrs. Sulbha Shrikant Chitre & Ors.)..Defendants

Appearance:-

Adv. Priyanka Naik for plaintiff.

Adv. Pranav Manjarekar h/f. Adv. Atmaram Pathade for defendant No.1 to 3.

**CORAM : HER HONOUR JUDGE MRS. M.M.DESHPANDE.
(COURT NO.66).**

DATE : 10th September, 2025.

ORDER

1. The plaintiff has filed present Notice of Motion praying in terms of prayer prayer clause (c) that Defendant No.1 to 9 their servants, agents and representatives be restrained by an order of temporary injunction from any way selling, transferring, alienating and/or creating third party interest in new Permanent Alternate Accommodation which will be provided in lieu of the suit premises to the plaintiff. The plaintiff has not pressed prayer clause (a), (b) and (d) of Notice of Motion.

2. The contention of the plaintiff is that he has filed present suit for declaration and permanent injunction and for incidental reliefs. The plaintiff has claimed 1/4th undivided share in the suit premises and

new Permanent Alternate Accommodation which will be provided in lieu of the suit premises to Defendant No.1 to 9. The plaintiff is co-owner of the suit premises and new Permanent Alternate Accommodation which will be provided in lieu of the suit premises. The plaintiff is equally entitled to have right, title and interest in the suit premises. It is the contention of the plaintiff that if third party rights are created in the suit premises, his right to have undivided share in the suit property will be infringed. Therefore, he prayed that Defendant No.1 to 9 be restrained from creating third party interest in new permanent alternate accommodation.

3. Defendant No.1 to 3 have filed their affidavit in reply to the Notice of Motion. They denied all the contentions made by the plaintiff in Notice of Motion and plaint. According to them, Shri Narayan Chitre passed away on 19.1.2020. Mrs. Revati Chitre then lived with Shrikant Narayan Chitre and his family at the suit premises until her death on 24.11.2020. After death of Revati Chitre, her Will was executed by Adv. Anita Dalvi on 6.12.2020. Shrikant Narayan Chitre passed away on 19.3.2021 leaving behind his legal heirs i.e. Defendant No.1 to 3 herein. Shrikant Chitre through his Will transferred his 49% share in the suit premises to his wife Sulbha Chitre. Both Revati Narayan Chitre and Shrikant Narayan Chitre's Wills are in the process of being probated. When redevelopment agreement was finalized, Defendant No.1 and 2 moved to Thane and Defendant No.3 moved to Badlapur. On 22.12.2021, the plaintiffs filed the present suit using the address of demolished premises to mislead the court and suit proceeded ex-parte against them. The defendants were unaware of the suit proceedings on several dates from February, 2022 to February-2023 and learnt about the suit proceedings in March 2023 and thereafter appointed advocate

to set aside ex-parte order. It is further contended that plaintiff has filed the present suit with false, dishonest and malicious intention to harass them. The plaintiff is not entitled to any relief as set out in the Notice of Motion. No case is made out against the defendants for grant of any relief. Therefore, Defendant No.1 to 3 prayed to dismiss present Notice of Motion.

4. Heard learned counsel for plaintiff and learned counsel for Defendant No.1 to 3. Gone through the record.

5. It is a fact that plaintiff has filed present suit for declaration and injunction. The plaintiff is claiming his share in the suit property. The rights, title and interest of the parties are to be decided in the present suit. Therefore, if third party interest is created in the suit property, the very purpose of the suit will become infructuous. Moreover, no prejudice would be caused to the defendants, if defendants are restrained from creating third party interest in the suit premises. Considering the nature of the suit, it is necessary to keep the property as it is, till the rights of the parties in the suit premises are decided. Therefore, in order to avoid multiplicity of the litigation and in order to decide the matter on merit, it is necessary to restrain defendant No.1 to 9 from selling, transferring, alienating and/or creating any third party interest in new permanent alternate accommodation which will be provided in lieu of the suit premises. Therefore, Notice of Motion deserves to be allowed in terms of prayer clause(c) only. In the result, following order is passed :-

ORDER

1. Notice of Motion No. 657 of 2022 is allowed in terms of prayer clause (c) only.

2. Defendant No.1 to 9, their agents, servants, and representatives are hereby restrained from selling, transferring, alienating and/or creating any third party interest in new permanent alternate accommodation which will be provided in lieu of the suit premises till the decision of the suit.

3. Parties to note.

4. No order as to costs.

5. Notice of Motion No. 657 of 2022 is disposed of accordingly.



Date : 10.9.2025

(MRS. M.M.DESHPANDE)

Judge,
City Civil Court,
Mumbai. (Court No.66)

Dictated on : 10.9.2025.
Transcribed on : 11.9.2025.
Signed on : 11.9.2025.

CERTIFIED TO BE TRUE AND CORRECT COPY OF THE ORIGINAL
SIGNED JUDGMENT/ORDER

Name of Stenographers: B.S.Parab

Upload date and time: 12.9.2025 at 5.50 p.m.

Name of the Judge	HHJ MRS. M.M.DESHPANDE Court No.66
Date of Pronouncement of Order	10.9.2025
Order signed by P.O. on	11.9.2025
Order uploaded on	12.9.2025