

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

**NOTICE OF MOTION (L) NO. 1439 OF 2016
IN
SUIT (L) NO. 441 OF 2016**

Dhirubhai @ Dhirajlal H. Desai & Ors. .. Plaintiffs
Vs.
Lataben Abuwala & Ors. .. Defendants

Mr. Dinyar Madon, Senior Advocate, Ms. Bindi Dave & Ms. Nikita Bhansali
i/b Wadia Ghandy & Co. for the Plaintiffs.

Mr. Zal Andhiyarujina a/w Mr. Aditya Khandeparkar i/b Hariani & Co. for
Defendant Nos.1, 5 and 9.

Mr. Shrikant Doijode a/w Ms. Falguni Thakkar i/b M/s. Doijode Associates
for Defendant Nos.6 and 7.

Mr. Anirudh Hariani i/b Mr. Kalpesh Joshi for Defendant Nos.2 and 10.

**CORAM : K.R.SHRIRAM, J.
DATED : 11th JULY, 2016.**

P.C.

1 Shri Hariani, counsel appearing for defendant Nos.2 and 10
states that Shri Shyam Mehta, senior counsel leading in this matter has
taken ill today and requests that the matter be stood over.

2 Shri Madon, senior counsel agrees for stand over of the matter
only for two reasons; (i) because of the ill-health of the opposing counsel
and (ii) because the matter which was to be heard in South Africa on
08.07.2016 has been part heard and stood over to 29.08.2016. Shri Madon
states that the matter be taken up on any date in July 2016.

3 Shri Madon further states that defendant No.11 has filed a Probate Petition in Navsari, Gujarat. He also states that defendant Nos.11 and 12 has sold one of the properties to defendant No.13. He also states that defendant No.11 has been showing the other properties to third parties and he apprehends that they may create third party rights with regard to other properties as well. Shri Madon requested that ad-interim be granted against defendant Nos.11, 12 and 13 from creating any third party rights as regards any of the properties which are within their control/possession.

4 Shri Madon tenders an affidavit of service of one Goraksh Vasant Rambade affirmed on 11.07.2016 in which it is stated that defendant Nos. 12 and 13 have been served. As regards defendant No.11 it is stated “service could not be effected since concerned person was not available at the time of service”. Since I am granting ad-interim only until the next date of hearing, no prejudice will be caused to Defendant No.11 as he has not been served particularly since defendant Nos.11, 12 and 13 have together created third party rights as regards one of property and defendants Nos.11 and 12 together sold a property.

5 Therefore, until the next date of hearing, defendant Nos.11, 12 and 13 by themselves or their successors, representatives, agents, servants and/or any other person(s) claiming through, under or in trust for them either directly or indirectly, are restrained from in any manner entering into, using, occupying, selling, transferring, disposing of, alienating, encumbering, pledging, creating third party rights in respect of the estate of the Deceased described in the Schedule, Exhibit "A" to the Plaint together with the assets and properties disclosed by the Defendants, or any part or portion thereof.

6 Plaintiffs to serve a copy of this order upon defendant Nos.11, 12 and 13 and also serve a copy of the Notice of Motion alongwith affidavit in support upon defendant No.11 once again.

7 Stand over to 25.07.2016.

8 In the meanwhile, plaintiffs to remove all office objections and get the Notice of Motion numbered.

(K.R. SHRIRAM, J.)