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

NOTICE OF MOTION NO.3051 OF 2010
IN
SUIT NO.1965 OF 2010

Jasmine S. Shah. ..Plaintiff
-Versus-
Mallika M. Jhaveri and others. ..Defendants

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D.H.Mehta a/w Preeti Gada, Bharti Shivarkar i/b Sudhir Shah &
Associates, for the Plaintiff.
R.A.Shaikh, for the Defendant No.1.
D.D.Madan i/b Siganporia & Dalvi, for the Defendant Nos.2 and 7.
C.M.Lokesh i/b Lex Forum, for the Defendant No.4.
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CORAM : S.C.DHARMADHIKARI, J.
DATE : 26th October, 2010.

P.C.

1 This is a Notice of Motion by the Defendant No.1 for the following reliefs:-

- “(a) That this Hon’ble Court be pleased to direct Defendant No.5 to permit Defendant No.1 to operate the accounts which stand in her name more particularly described in the schedule ‘A’ annexed hereto.*
- (b) That this Hon’ble Court be pleased to direct Defendant No.5 to permit Defendant No.1 to operate the account standing in the name of Virgin Metallic Chemicals Pvt.Ltd. more particularly described in schedule ‘B’ hereto.*
- (c) That this Hon’ble Court be pleased to direct Defendant No.5 to honour all the cheques issued by Defendant No.1 from the said accounts maintained with Defendant No.5 particulars whereof are mentioned in schedule-C to this Notice of Motion and other cheques issued from the said accounts.*

- (d) *For ad-interim reliefs in terms of prayers (a), (b) and (c) abovenamed.*
- (e) *For urgent ad-interim orders in terms of prayer (a), (b), (c) hereof.*
- (f) *For costs.*
- (g) *For such other and further reliefs as the nature and circumstances of the case may require.”*

2 In the affidavit in support, which is affirmed by the Defendant No.1, it is stated that there are two Bank accounts which are current accounts of M/s Virgin Metallic Chemicals Pvt.Ltd., one in schedule-A and another in schedule-B to the motion. Schedule-B account is in the name of M/s Virgin Metallic Chemicals Pvt.Ltd. and is current account with the Indian Bank, Napean Sea Road Branch and has been operated by the Defendant No.1.

3 Mr.Mehta controverts this statement and states that it was operated jointly.

4 Be that as it may, both sides agree that the accounts have been frozen for some time because of this litigation.

5 Request is made by the Defendant No.1 that the account be defreezed only to the extent of enabling the Company to pay salaries of the employees whose names are listed in Schedule-C to the Notice of Motion.

6 The Notice of Motion is contested by the Plaintiff but Mr.Mehta states that the Plaintiff does not desire to oppose this request and therefore, no affidavit in reply is filed.

7 Without prejudice to the rights and contentions of the parties, both mother and daughter namely the Defendant No.1 and the Plaintiff have taken a reasonable stand that the workers whose names are listed in Schedule-C to the Notice of Motion, ought to be paid their salaries for the months of August, 2010 and September, 2010 and the cheques in that

behalf be encashed by allowing the said M/s Virgin Metallic Chemicals Pvt.Ltd. to operate it's bank account.

8 Accordingly, to a limited extent to which the salaries should be released to the workers whose names are listed in Schedule-C, the account of M/s Virgin Metallic Chemicals Pvt.Ltd. will be allowed to be operated by the Defendant No.1. The cheques which have already been issued may be encashed by the parties by presenting the same to the Indian Bank, Napean Sea Road Branch and that Bank will allow the account to be operated and the cheques will be encashed at the risk of the Defendant No.1. If these cheques are dishonoured, the Plaintiff will not be held responsible.

9 This Notice of Motion is disposed of accordingly. The Indian Bank and all concerned to act on an authenticated copy of this order. This order is passed without prejudice to the rights and contentions of both parties.

(S.C. Dharmadhikari, J)

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

NOTICE OF MOTION NO.1964 OF 2010
IN
SUIT NO.1965 OF 2010

Jasmine S. Shah. ..Plaintiff
-Versus-
Mallika M. Jhaveri and others. ..Defendants

.....
D.H.Mehta a/w Preeti Gada, Bharti Shivarkar i/b Sudhir Shah &
Associates, for the Plaintiff.
R.A.Shaikh, for the Defendant No.1.
D.D.Madan i/b Siganporia & Dalvi, for the Defendant Nos.2 and 7.
C.M.Lokesh i/b Lex Forum, for the Defendant No.4.
.....

CORAM : S.C.DHARMADHIKARI, J.
DATE : 26th October, 2010.

P.C.

1 Pursuant to the order passed by this Court on 19.10.2010, Mr.Mehta states that the relevant details have been obtained from the Defendant No.5 Bank. He has filed a further affidavit of the Plaintiff which is affirmed on 25.10.2010. The same is taken on record.

2 Mr.Shaikh seeks time to deal with the contents of this affidavit. At his request, stand over to 25.11.2010.

3 It is stated that the Plaintiff is entitled to several sums and now the details as revealed would disclose that the Defendant No.1 has enough money at her disposal but the allegation is that instigation of

other parties prevent her from giving legitimate share of the Plaintiff.

4 Equally, the Defendant No.1 is alleging that the Plaintiff has been put up by her husband and it is at his instance, litigation has been instituted by the daughter (Plaintiff) against mother (Defendant No.1).

5 After some arguments, both sides agree that the Defendant No.1 will deposit a sum of Rs.3 crores in this Court on or before 25.11.2010. The said amount will be deposited by a pay-order drawn in the name of the Prothonotary & Senior Master/ Registrar, Original Side of this Court. To enable the Defendant No.1 to comply with this order, the Indian Bank, Nepean Sea Road Branch shall allow the Defendant No.1 and the Plaintiff to prematurely encash the fixed deposit which is stated to be sum of Rs.5 crores. The premature encashment of the fixed deposit would be in compliance of this order and to enable deposit Rs.3 crores in this Court. The statement signed with regard to fixed deposit with the Indian Bank is taken on record and marked "X" for identification. This statement of fixed deposit is identified by both sides.

6 On such deposit being made, the first Defendant's Advocate to notify the same to the Plaintiff's Advocate and thereafter, the Plaintiff can withdraw the same on her undertaking that in case this Court directs the Plaintiff to bring back the sum or pay to any of the parties to the suit, she will comply with the same subject to such rights available to her in law. On such undertaking being filed and copy thereof forwarded to the first Defendant's Advocate, the Prothonotary & Senior Master/ Registrar, Original Side of this Court will allow withdrawal of the said sums.

7 It is also directed that without prejudice to the rights and contentions of both sides in the motion and suit, if there are safe deposit lockers with the Indian Bank, Nepean Sea Road Branch, then the Bank to allow inspection of such lockers by the Plaintiff and the Defendant No.1

provided that they come for joint inspection with their representatives and the authorized officer of the Bank to open the lockers and allow inspection by the parties.

8 Post this matter under the same caption on 03.12.2010.

(S.C. Dharmadhikari, J)