

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

CIVIL APPLICATION NO. 207 OF 2015
IN
MISC. C.A. NO. 218 OF 2014

Reshma Begum Khan. ... Applicant.

In the matter between :

Abdul Hafiz Hamid Khan and another. ... Petitioners.

V/s.

Dr.Arshi Begum Khan. ... Respondent.

Y.H.Muchhala, Senior Advocate with Sharique Nachan i/b.
A.G.Pandit for the applicant.

Ms.Poornima Kantharia for respondent No.1.

CORAM : R.D. DHANUKA, J.

DATED : 14th December 2015.

PC.

By consent the following order is passed:

1. The Court Receiver, High Court is appointed as Receiver in respect of flat No.A-10, 4th floor, Universal Co-operative Housing Society Ltd. described in clause-1 of the consent terms dated 10th February 2015 filed by the parties. The Court Receiver is directed to sell the said flat by public auction on or before 31st December 2015. It is made clear that the

parties to the proceeding are also permitted to participate in the bid to be conducted by the Court Receiver. The Court Receiver shall confirm the bid in favour of the highest bidder. After the auction is conducted, the Court Receiver shall make payment of sale proceeds, after deducting office expenses and charges therefrom, to both the parties equally.

2. There is no dispute that the said flat No.A-10 stands in the name of petitioner No.1 and respondent jointly. It is submitted that none of the parties is having original share certificate issued by the society with them, in respect of the said flat. The Court Receiver shall make it clear in the terms and conditions of the bid that the successful bidder would apply for duplicate share certificate. If any writing is required by petitioner No.1 and respondent to effectuate transfer of the said flat in favour of the successful bidder, both parties through their learned counsel undertake that upon any requisition by the Court Receiver their clients shall execute such writing in favour of the successful bidder. Undertaking is accepted.

3. The Court Receiver shall clarify in the terms and conditions of the sale that vacant possession of the said flat would be handed over from the occupants of the said flat to the successful bidder within two weeks from the date of Court Receiver making payment to the parties. Mr.Muchhala, learned senior counsel for the applicant undertakes on behalf of the applicant that applicant or the occupant, if any, of the said flat would hand over vacant and peaceful possession of the said flat to the Court Receiver within two weeks from the date of receipt of payment from the office of the Court Receiver. Undertaking is accepted.

4. It is made clear that if the applicant/occupant does not hand over vacant and peaceful possession of the said flat to the Court Receiver within two weeks from the date of receipt of payment, the Court Receiver to take forcible possession of the said flat from the applicant/occupant, and if required, with the assistance of the Police.

5. The Court Receiver is permitted to issue a public notice in such newspaper having wide circulation as he may deem fit for the purpose of effecting sale of the said flat by public auction.

6. Civil application is disposed of in the aforesaid terms. No order as to costs.

7. Office of the Court Receiver and all concerned parties to act on an authenticated copy of this order.

(R.D. DHANUKA, J.)