

IN THE HIGH COURT OF JUDICATURE AT BOMBAY***CIVIL APPELLATE JURISDICTION*****APPEAL FROM ORDER NO. 116 OF 2015****ALONGWITH****CIVIL APPLICATION NO.1192 OF 2015****IN****APPEAL FROM ORDER NO. 116 OF 2015****Mevalal Hitlal Gupta****..... Appellant****VERSUS****Phoolchand Hitlal Gupta & Ors.****..... Respondents**

Mr.V.S.Kapse, i/b. Ms.Rita Yadav for the Appellant.

Mr.J.M.Chodankar for Respondent Nos.1 to 3.

Mr.Pramod Patil for Respondent Nos. 4 and 5.

Mr.S.P.Thorat for Respondent No.6/SRA.

CORAM : R.D. DHANUKA, J.**DATED : 22nd DECEMBER, 2015****P.C.**

By consent of parties, following order is passed :-

- (a) The appellant and respondent nos. 1 to 3 through their clients who are present in court undertakes to vacate the suit Hut No.7, M.P.Mill Compound, New Jaifalwadi Hill Road, Behind Police Colony Tardeo, Mumbai – 400 036 and shall handover the same to the respondent no.5. It is made clear that if the possession is not handed over by the appellant or respondent nos. 1 to 3, the Court Receiver shall dispossess them physically and if necessary with assistance of police and shall handover the same to the respondent no.5.

(b) Learned counsel appearing for the appellant and respondent nos. 1 to 3 on instruction states that their respective clients will make a separate application before the learned trial judge inter alia praying for appointment of their respective clients as an agent of the Court Receiver in respect of the newly allotted tenaments of respondent no.5 i.e. Flat No.302. Statement is accepted. The learned trial judge shall make an endeavor to decide the said application within one month from the date of completion of the pleadings by both the parties. If any application is made by the appellant for framing any issue under section 9A of the Code of Civil Procedure, the same also can be decided on its own merits by the learned trial judge within the time prescribed.

(c) It is made clear that if for any reasons, the application proposed to be made by the appellant or by the respondent nos. 1 to 3 is not disposed of within the time period and if any of these parties fail to handover possession of Hut No.7 to the Court Receiver within a period of two months from today, the Court Receiver shall dispossess them and shall handover possession thereof to the respondent no.5.

(d) All contentions of the appellant and the respondent nos. 1 to 3 raised in this appeal as well as in the pending suit are kept open.

(e) In view of the order passed today in this appeal, Appeal from Order No.117 of 2015 does not survive and is accordingly disposed of. In view of disposal of Appeal from Orders, all pending applications do not survive and are accordingly disposed of. No order as to costs.

[R.D. DHANUKA, J.]