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IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

ARBITRATION PETITION NO.458 OF 2015

M/s. Yashaswini Co-Operative Housing Society Ltd. ... Petitioner

Vs.

Sunil R. Shah ... Respondent

.....

Mr. S.A. Oak, i/b. Mahesh Menon & Co., for the Petitioner.

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CORAM : S.C. GUPTE, J.

DATED : 29 APRIL 2015

P.C. :

. The Arbitration Petition is under Section 9 of the Arbitration and Conciliator Act, 1996. In the last order passed by this Court (order dated 7 April 2015), this Court noted the facts of the case and particularly the fact that the flats held by members of the Petitioner Society were handed over to the Respondent as far back as in December 2009 for redevelopment of the suit property. But there has been no progress in the property so far and in the premises, the delivery of vacant possession is sought by the Petitioner. This Court noted that despite service of the petition, the Respondent was absent on that date. This Court, accordingly, directed a fresh service of the petition to be made on the Respondent. This Court also granted ad-interim injunction in terms of prayer clauses (a) and (e). Prayer clause (e) required the Respondent to disclose on oath all valid third party rights, if any, created by the Respondent in respect of the property. The matter was placed for

admission today with notice to all the parties that the matter may be disposed of finally at the stage of admission. This order has been communicated by the Petitioner to the Respondent on 7 April 2015 and 9 April 2015. A copy of the petition was also served afresh on the Respondent along with the notice of the next date of hearing, i.e. today's date. In spite of this notice, the Respondent is absent even today and shows no cause. An affidavit of service has been duly filed by the Petitioner.

2. In the premises, the following order is passed :-

(i) Court Receiver, High Court, Bombay, is appointed as a Receiver in respect of the property described in prayer clause (d) of the petition with all powers, including power to take possession of the suit property from the Respondent and handover the possession of the same to the Petitioner.

(i)(a) There shall be an order in terms of prayer clause (c) of the Petition. The Respondent shall handover the original documents referred to in prayer clause (c) to the Petitioner within a period of three weeks from today.

(ii) Besides this order, the Petitioner will be at liberty to apply for such steps against the Respondent as it may be advised for non-compliance with prayer clauses (a) and (e) of the petition despite orders passed by this Court on 7 April 2015.

3. The Arbitration Petition is disposed of accordingly. The Receiver may carry out the order, if necessary, with police assistance.
4. The Receiver to act on the authenticated copy of this order.

(S.C. GUPTE, J.)