

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

COURT RECEIVER'S REPORT NO. 202 OF 2013
IN
SUIT NO. 993 OF 1997

Kutubuddin Alibhai Lakdawala .. Plaintiff
Versus
Asgar A. Lakdawala and others .. Defendants
Mr. Cyrus Ardeshir, for Court Receiver.

CORAM : S. J. KATHAWALLA, J.

DATE : 8TH DECEMBER, 2015.

P.C.:

The Court Receiver was appointed in respect of the Suit Premises situate at Ammar Manzil, formerly known as Guzdar Mansion, 77, Chandanwadi, Mumbai – 400 002. There are several residential flats and shops in this building. This Report is confined to certain directions in respect of Flat Nos.4, 7 and 9. In addition thereto Court Receiver has also sought certain directions against the Municipal Corporation of Greater Mumbai.

The Court Receiver's Report can be disposed off in the following terms:

1. As far as Flat No. 7 is concerned there is no question of handing over possession of the said flat to Defendant No.2. Defendant No.2 had earlier stated that Flat No.7 was vacant and therefore, the Court Receiver ought to be directed to handover possession of the said flat to him. This contention came to be rejected by the Court by its Order dated 3rd February 2014. By the said Order Defendant Nos.2 & 3 were granted liberty to apply to the Division Bench for appropriate orders. In light of the Order dated 3rd February 2014 there is no question of the Court Receiver handing over possession of Flat No.7 to Defendant No.2.

2. Defendant No.2 had addressed a letter dated 3rd August 2012 which is annexed at Exhibit 'E' to the Court Receiver's Report wherein Defendant No.2 has inter alia set out that as the said Flat No.7 was unoccupied and unused for a long period of time there is a danger and risk of white ants, fire and/or illegal entry and occupation by third parties. The Court Receiver is directed to appoint any pest control agency as well as an electrician to inspect and take any appropriate measures as may be required to safe guard the said flat. The Court Receiver is further directed to ensure that there is no illegal entry or occupation by any third party in the said flat.

3. As far as Flat No.4 is concerned the Court is informed that the wife of the original Tenant Mr. Mehru Hoyvoy has executed a Tenancy Agreement dated 30th March 2015 and is in use and occupation of the said flat. As far as Flat No.9 is concerned the same is in the occupation of Mr.Abbasbhai M. Hathiyari. I am informed that Mr. Hathiyari has not executed the Tenancy Agreement till date. The Court Receiver is directed to immediately and not later than one week from the date of receipt of this Order, address a letter to Mr. Hathiyari calling upon him to execute the Tenancy Agreement in respect of Flat No.9. The Tenancy Agreement must be executed on or before 31st December 2015. A copy of this order shall also be served by the Court Receiver on Mr. Hathiyari. If Mr. Hathiyari does not execute and or refuses to execute the Tenancy Agreement then in that event the Court Receiver shall immediately submit a Report to this Court seeking possession of the said Flat. This Receivers Report was confined to only these issues. The question pertaining to Lease Rent has already been dealt with by an earlier order dated 28th October 2015 and therefore, that issue no longer survives.

4. Earlier orders passed in this matter in so far as they pertain to flats and shops not mentioned herein shall continue to operate notwithstanding the disposal of this Court Receivers Report but subject to the orders passed by the Appellate Court if any. This Court Receiver's Report is accordingly disposed off.

(S. J. KATHAWALLA, J.)