

Shephali

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
TESTAMENTARY AND INTESTATE JURISDICTION
COURT RECEIVER'S REPORT NO. 383 OF 2014
IN
TESTAMENTARY PETITION NO. 438 OF 2002**

Mr. Bipin Bhogilal Shah	...Plaintiff
<i>Versus</i>	
Lalita B. Shah & Ors. Manesh Power Equipment Pvt. Ltd. & Anr.	...Defendants
<i>And</i>	
Manesh Power Equipment Pvt. Ltd. & Anr.	...Respondents

Ms. K. C. Nichani, *i/b Amit Shah, for the Respondent No. 1*
Mr. Piyush Raheja, *i/b Keystone Partners, for Defendant No 2.*
Mr. N. A. Bandodkar, *Ind Assistant to Court Receiver, is present.*

CORAM: G.S. PATEL, J
DATED: 10th August 2015

PC:-

1. Heard. Ms. Nichani, learned Advocate for the Respondent No. 1, the agent of the Court Receiver states that her client accepts the society's claim towards maintenance for Rs.2,84,962/-. The amount has already been paid by the 1st Respondent to the Court Receiver. The 1st Respondent claims to have paid in excess. Consequently, the Receiver is directed to release an amount of Rs.

2,84,962/- to the Society less any amount already paid under the Maintenance Account.

2. The interest claimed of Rs. 4,98,335/-, the repairs claim of Rs. 1,55,842/-, the claim towards “new repair account” of Rs. 6,85,785/-, the claim of Rs. 9,245/- as water charges and the claim of Rs. 11,738/- as additional bills for 1st April 2013 to 30th June 2014 are all disputed. Ms. Nichani, on instructions, accepts, however, the cable television charges of Rs. 6,094/-. This amount will, therefore, be also paid by the Receiver to the Society.

3. As regards the other amounts disputed by the 1st Respondent, these are presently not to be released by the Court Receiver. I must note that the Society was directed to file an Affidavit giving an explanation as to these other claims. The Affidavit that it has filed is completely unsatisfactory and does not even begin to answer the queries raised. It will be open to the Society to approach the Court Receiver and submit the necessary clarifications for which the Receiver will make a supplementary report seeking directions from the Court.

4. For the present, prayer (a) of this Report is disposed of in the above terms.

5. Prayer clause (b) of the Report is expressly rejected.

6. The Receiver may encash the fixed deposits as necessary for making payments to the Society.

7. Ms. Nichani states that the Respondent has paid an ad-hoc amount of Rs. 3,000/- per month although he is required only to pay the exact society dues which are less than the monthly royalty. She requests that the surplus be adjusted against future bills. The Court Receiver is directed to make payment to the Society of the bills for the period from 1st July 2014 onwards initially out of the excess amounts, if any, available in his hands.

8. Costs of the Report quantified at Rs. 3,000/- to be recovered funds available in the Court Receiver's hands.

9. As regards car parking, the Society has, in its Affidavit, stated that the Society allots car parking space on chronological basis as per its waiting list. It is not possible to compel the society to make an exception for the 1st Respondent. However, given that the 1st Respondent is wheelchair-bound, it is open to the 1st Respondent to make a suitable application to the Society in this respect.

(G. S. PATEL, J.)