

Vidya Amin

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

**CIVIL APPLICATION NO. 2248 OF 2015
WITH
CIVIL APPLICATION NO. 2249 OF 2015
IN
FIRST APPEAL NO. 1099 OF 2003**

M/s. Rubberwala Housing and Infrastructure Pvt. Ltd.	...	Applicant
And. Zahid Ahmed (Decd.) through LRs.		
1A. Mrs. Anis Fatma wd/o. Zahid Ahmed & Ors.	...	Appellants
vs.		
Sardar Banoo wd/o. Sartaj Ahmed & Ors.	...	Respondents

Mr. Suraj Desai Almeida, Advocate for the applicant.
Mr. R.A. Shaikh a/w. Mr. Mohd. Irfan Momia, Advocate for the original appellants.
Ms. Usha Gadagkar i/b. M/s. Diamondwala & Co. for respondent nos. 1(A) to 1(I).

CORAM: **MRS.MRIDULA BHATKAR, J.**
DATE: 15th January, 2016.

P.C.:

A suit filed by the appellants/original plaintiffs is dismissed for partnership and rendition of accounts and the order is passed on 29th April, 2002 in favour of respondent nos. 1(A) to 1(I). As per the submissions of learned counsel for the applicant and respondent nos. 1(A) to 1(I), the parties are using the suit premises in rotation. At present, appellants are occupying the suit premises and from 1st April, 2016 respondent nos. 1(A) to 1(I) will be occupying the premises for a period of four years. The applicant is a owner, builder and developer.

2. The learned counsel for respondent nos. 1(A) to 1(I) submitted that she is not opposing the redevelopment. She submitted that the trial Court has ruled out that the premises belongs to partnership and it belongs to respondent Sartaj Ahmed. Respondent nos. 1(A) to 1(I) are his legal heirs.

3. The learned counsel for the appellants Mr. Shaikh is present. All the parties agreed that the building is in dilapidated condition. The parties have no opposition to handover the premises for redevelopment subject to keep their previous arrangement intact as per the order passed by this Court while appointing the Court Receiver. In view of this, I think the following order is appropriate:

- (i) The appellants shall vacate the premises and handover the vacant premises to the Court Receiver on 31st January, 2016.
- (ii) The applicant/landlord to enter into an agreement with the Court Receiver on or before 30th January, 2016. The Court receiver shall take the possession of the suit premises on 31st January, 2016 and shall handover the premises to the land owner/builder-developer on 1st February, 2016.
- (iii) Before entering into an agreement, the Court receiver can call a meeting of the concerned parties for the purpose of approval of draft agreement. Copies of the agreement which

is going to be entered into by the applicant/landlord with the Court Receiver in respect of suit premises are to be handed over to the respondents.

- (iv) The appellants who are at present in possession of the suit premises are supposed to remain in possession of the suit premises as per the arrangement made by this Court till 31st March, 2016, as they will be completing 4 years of their rotation and therefore they are entitled to receive the rent/compensation from owner/developer for the said premises for two months, i.e., February and March, 2016. From 1st April, 2016 the owner/developer shall pay the said rent or compensation to respondent nos. 1(A) to 1(I) collectively and shall continue to pay the same for four years if the building is not ready before 4 years, i.e., on or before 31st March, 2020.
- (v) If the construction of building is completed before four years, the applicant/owner/builder to handover the possession of the suit premises to the Court Receiver and the Court Receiver shall handover the premises to respondent nos. 1(A) to 1(I) and the same will be in possession of respondent nos. 1(A) to 1(I) till 31st March, 2020, as their period of rotation

of four years will come to an end on that day.

- (vi) If any other amount is paid by the owner/builder besides the compensation or rent amount towards this premises, then that amount is to be deposited with the Court Receiver and the Court Receiver shall keep that amount in fixed deposit of any nationalized bank.
- (vii) All these arrangements is subject to outcome of the First Appeal.

4. Civil Applications are disposed of.

(MRIDULA BHATKAR, J.)