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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
COURT RECEIVER'S REPORT NO. 37 OF 2016
IN
SUIT NO. 4097 OF 1990**

Anil Alias Ganesh Janardhan Gavde ...Plaintiff
Versus
Vaishali Rajendra Gavde & Others ...Defendants

**WITH
CHAMBER SUMMONS NO. 148 OF 2016
IN
SUIT NO. 4097 OF 1990**

Anil Alias Ganesh Janardhan Gavde ...Plaintiff
Versus
Rajendra J. Gavde (since deceased) Vaishali R. ...Defendants
Gavde & 8 Others
And
Maniben P. Satra ...Applicant

**Ms. Mamta Sadh, i/b Mr. Joseph Fernandes, for the Applicant in
Chs/148/2016.**

Mr. U.A. Mahajan, ib M/s. Divekar & Co., for the Plaintiff.

Mr. G.G. Ketkar, Ist Assistant to the Court Receiver, is present.

**CORAM: G.S. PATEL, J
DATED: 19th September 2016**

PC:-

1. Heard.
2. The Suit is for partition. The Court Receiver was appointed on 1st September 1994.
3. Ms. Sadh appears for Smt. Maniben Satra, who is admittedly the widow of the original tenant of Shop No. 5, Shyam Bhuvan, Gokhale Road, Mulund (East), Mumbai – 400 081. As regards Shop No. 5, the Report sets out that today Smt. Maniben Satra is about 78 years old. There is a business being run from Shop No. 5 known as Bikaner Sweets or Bikaner Farsan. The case of the Plaintiff and the Court Receiver is that Maniben's nephews Dilip and Jayantibhai Satra as also a third person named Mr. Manaram Choudhary have all claimed rights in respect of Shop No. 5. My attention is drawn to the previous orders dated 23rd March 2016 and 6th April 2016 which record submissions that Dilip and Jayantibhai are in possession of Shop No. 5.
4. Ms. Sadh, on instructions, readily concedes that Dilip and Jayantibhai do not claim any independent rights in the premises. The only person who is entitled to possession of the premises is the widow of the deceased tenant, Smt. Maniben. Ms. Sadh, on instructions, clarifies that neither of the Satra brothers (Dilip and Jayantibhai) nor any partnership firm in which they are involved, whether with Smt. Maniben or otherwise, nor any employee or manager of that firm has any independent right in respect of any

part of Shop No. 5, including the right to exclusive possession. As to Mr. Choudhary, there is no doubt that he too has no independent right to possession in respect of this premises.

5. The position is that today Smt. Maniben Satra is in lawful possession of the premises as the widow of the original tenant. Her possession is not to be disturbed. It is clarified that she will be entitled to carry on her own business from the premises. If she chooses to do so in partnership or in arrangement with any person, she may; but neither that partnership firm nor any person with whom she has any arrangement will thereby get any right, title or interest of any nature whatsoever in respect of these premises. It is clarified that the property is in *custodia legis*. These statements made on instructions on behalf of Smt. Maniben Satra are also accepted as undertakings to the Court. It is, therefore, clarified that any violation of the terms under which Smt. Maniben Satra continues to be in possession of these premises or any independent claim by any third person will be seen as a breach of the order of this Court.

6. As regards the terrace room, the Receiver confirms that he found one Smt. Sumati Govind Bhoir in possession of that premises along with one M.E. Hoge. The Court Receiver confirms that he has taken possession of the terrace room from Smt. Sumati Bhoir, she having no right in these premises.

7. As regards Shop No. 15, the Court Receiver has found one Mr. Rasiklal Saiya and Rashmi Saiya to be present during his visit and in possession. Mr. Rasiklal Saiya is the son of original tenant

Premji Kanji Saiya. The shop is said to be in vacant condition. It is clarified that possession of Shop No. 15 is to continue only with Mr. Rasiklal Saiya and Rashmi Saiya and that no other person is entitled to possession of these premises. The Court Receiver has also been appointed of this premises and any claim made by any other person would amount to a breach of the order of this Court dated 1st September 1994. It is clarified that Mr. Rasiklal Saiya and Rashmi Saiya will be entitled to use the commercial premises themselves but without creating any rights in respect of any other person, firm or entity whatsoever.

8. With these directions and orders, the Court Receiver's Report is disposed of. Prayer (a) does not survive. The report is also made absolute in terms of prayer clause (b).

9. All contentions of both sides as regards mesne profits for previous use of the premises are left open to the final hearing of the Suit.

10. Mr. Sadh seeks leave to withdraw the Chamber Summons. The Chamber Summons is dismissed as withdrawn with no order as to costs.

(G. S. PATEL, J.)