

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

SUIT NO. 6468 OF 1999

Mrs. R.C. Patuck	.. Plaintiff
Vs.	
Salim Mohammed Lakdawal & Ors.	.. Defendants

Mr. Vivek Kantawala a/w. Mr. Amey Patil i/b Vivek Kantawala & Co. for Plaintiff.

Mr. Sureshkumar S. Bafna, plaintiff No.2 present in Court.

Mr. V.V. Khemka for Applicant in Chamber Summons No.1307 of 2002.

Dr. M.S. Deshpande, Court Receiver, Mr. D.K. Patil, Section Officer, present in Court.

**CORAM : K.R. SHRIRAM, J.
DATED : 4TH OCTOBER, 2016**

P.C.

1 The Suit was originally filed under Section 6 of the Specific Reliefs Act. The Receiver came to be appointed by an order dated 10.01.2000 and the Receiver took possession of the suit premises on 10.01.2000 after evicting the defendants with the help of police. The Court Receiver thereafter handed over the suit premises to the original plaintiff. In September 2001 the original plaintiff expired and the Court Receiver on information from the landlord took possession of the premises and locked and sealed the same. Pursuant to an order passed on 16.10.2001, the Court Receiver handed over possession of the suit premises to the landlord

without any security and royalty. The movables of the original plaintiff were shifted to two rooms in the premises by the Court Receiver and these rooms were locked and sealed by the Court Receiver.

2 One Aspi Sattha made a claim on the basis of the bequest under a will dated 19.01.1999 of the original plaintiff in respect of the suit premises. The landlord had taken out the Chamber Summons to be joined as plaintiff in place of the original plaintiff, which was allowed by an order dated 16.04.2002. The litigation between landlord who the present plaintiff and said Aspi Sattha continued and pursuant to an order dated 08.01.2016 passed by the Hon'ble Supreme Court of India, in Special Leave Petition No.11270 of 2009, the dispute between plaintiff landlord and Aspi Sattha came to be settled.

3 The present plaintiff viz. the landlord wish to withdraw the suit and are also seeking to be put in possession of the entire property and for a direction to the Court Receiver to remove the belongings of the original plaintiff and handover those two rooms as well to the plaintiff. The plaintiff's state that the Court Receiver may handover all the movables of original plaintiff to said Aspi Sattha. Shri Kemka appearing for Aspi Sattha states that within one week of receiving notice from the Court

Receiver and/or the Advocate for the plaintiff, his client will remove the movables from the premises and if for any reason Aspi Sattha is not able to remove it immediately, counsel for the plaintiff agrees that it will be kept in the premises atleast upto end of November 2016 before they decide to deal with it. Statements accepted.

4 The Court Receiver also has no objection but states that a sum of Rs.46,354/- is payable by the plaintiff to the Court Receiver. The Court Receiver prays that the parties suit may be asked to take inspection of the provisional statement of accounts and the concerned officer be directed to keep the said provisional statement of account as final statement of account as and when receiver stands charged in this matter. Prayer of Court Receiver granted.

5 Shri Kantawala on instructions from plaintiff No.2, who is present in Court, states that plaintiff No.2 shall pay the Court Receiver's charges within one week from today. Court Receiver to take steps to handover the possession of the entire premises including the two locked rooms to plaintiff upon receiving the Court Receiver's charges at which stage the Court Receiver shall stand discharged without passing of accounts.

6 In view of the above, the Suit is dismissed as withdrawn.
Refund of Court fees, if any, in accordance with rules.

7 Shri Kantawala also submits that plaintiff Nos.1 and 3 have
died on 01.01.2015 and 12.08.2003, respectively, and therefore, plaintiff
Nos.1 and 3 be deleted from the cause title. Leave to amend the cause
title granted. Amendment to be carried out during the course of today.

8 In view of the above order, Court Receiver's report No.214 of
2010 stands disposed.

(K.R. SHRIRAM, J.)