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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
COURT RECEIVER REPORT NO.208 OF 2016/I-GROUP
IN
WRIT PETITION (L)NO.324 OF 2015
IN
WRIT PETITION NO.922 OF 2015

Advance Commercial Co.Ltd. ...Petitioner
vs.
Mumbai Heritage Conservation
Committee through its Chairman
and others ...Respondents

Ms Mamta Sadh a/w Mr.Amol Arote i/b Amol Arote for the Petitioner
Mr.A.Y.Sakhare, Senior Counsel a/w Mr.H.C.Pimple for the respondent Nos.1 and 2
Mr.M.S.Bhandari i/b Ms Pranjali Bhandari for the respondent No.4
Mr.M.S.Deshpande, Court Receiver is present.

CORAM : A.S.OKA, &
A.A.SAYED,JJ.
DATE : JULY 13, 2016

P.C.:

1 Heard the learned counsel for the petitioner, the learned counsel for the fourth respondent and the learned Court Receiver on the Report. Perused the earlier orders passed by this Court. The fourth respondent is admittedly the owner/landlord of the building in question. The petitioner is a tenant of the first floor of the said building. In the order dated 10th March 2015, the Division Bench of this Court in paragraph 6 recorded a statement of the learned counsel representing the fourth respondent

that the said respondent was taking necessary steps by appointing an Architect and has applied to the Heritage Conservation Committee for permission to carry out repairs to the building.

2 The repairs were to be carried out to all the floors of the building by the fourth respondent. Clause (2) of the order dated 10th July 2015 passed this Court records that the fourth respondent had no objection to the Court Receiver and the Architect taking necessary steps for repairs. Paragraph 2 of the said order further adds that the fourth respondent would like to select a contractor from the panel of the Court Receiver after approval was granted by M/s.Shetgiri and Associates, Architects. Accordingly, in paragraph 4, this Court issued directions to the fourth respondent to select a contractor from the panel registered with the Court Receiver after approval of the Architects. It was directed that the contractor shall carry out all instructions of the Architect and the Court Receiver after the approval was granted by the Heritage Committee and the Municipal Corporation.

3 The Receiver by this Report has sought directions for payment of professional charges to M/s. M/s.Shetgiri and Associates, panel Architects and Dr.Mangesh Joshi, Structural Engineer of M/s.Vijna Consulting Engineers Private Limited. As far as payment of professional charges of the Architects is concerned, the learned counsel for the fourth respondent does not dispute that the

Architects were appointed for the purposes of doing the work of propping on the ground, first, second, third and fourth floors as well as for erecting external barricades. He submitted that only anxiety of the fourth respondent is that the bills issued by the Architects should not contain charges in relation to the temporary work which was to be carried out by the petitioner. We have perused the bill dated 9th March 2016 annexed to the Court Receiver's Report under consideration. It does not show that the bill is in relation to the work which was to be carried out by the petitioner. The learned counsel for the petitioner has placed on record letter dated 20th February 2016 together with the bill issued by the said Architects. The same are taken on record and marked `A-2' (collectively) for identification. These documents show that for providing Tarpauline sheet cover to the open terrace of the building, a separate bill has been submitted by the same Architects. The learned counsel for the petitioner states that necessary payment has been made by the petitioner in terms of the said bill. Therefore, as far as the bill issued by the Architects which is annexed to the report is concerned, the fourth respondent has to make necessary payment.

4 As regards the amount payable to the Structural Engineer, the submission of the fourth respondent is that the Structural Engineer was appointed at the instance of the petitioner, for the purpose of carrying out the work of propping of the first

floor. He invited our attention to the affidavit in reply filed by the petitioner and the minutes of the meeting dated 25th January 2016 convened by the Court Receiver.

5 Our attention is invited to the letter dated 6th November 2015 addressed by the Assistant Engineer (B and F), A ward to the said Architects as well as to the fourth respondent. The subject matter of the letter is providing propping at ground floor first floor, second floor and upper floor of the said building. In the said letter, a reference is made to the earlier letter dated 12th May 2015 issued by the Municipal Corporation of Greater Mumbai to the Architects and to the owner directing them to prop the building and barricades the surrounding area to avoid untoward incident. This work was to be done under the supervision of a Structural Engineer. The learned counsel for the fourth respondent on instructions states that it is not in dispute that though Shri Patankar, the Structural Engineer was appointed by the said respondent, he has not supervised the work of propping. Even the order dated 18th January 2016 passed by this Court specifically directs the Court Receiver to appoint a Structural Engineer and to carry out the work of propping of first, second and third floors of the building under the supervision of the Structural Engineer. Admittedly, the said work was carried out at the instance of the fourth respondent. Therefore, we reject the contention of the fourth respondent that the said respondent is not liable to

pay the professional remuneration to the Structural Engineer.

6 Accordingly, we dispose of the Court Receiver's Report No.208 of 2016 by granting prayer clauses (a) to(c). We grant time of six weeks to the fourth respondent to make payment in terms of prayer clause (a).

7 Place the petition under the caption of `Fresh Admission' on 19th August 2016.

(A.A.SAYED,J.) (A.S.OKA,J.)