IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
COURT RECEIVER'S REPORT NO.460 OF 2016
IN
ARBITRATION PETITION NO.1846 OF 2015

L and T Finance Ltd. … Petitioner
versus
Anand Khade and Anr. … Respondents

Ms. Samiksha Dusar i/by Mr. Girish Thakur, for Petitioner.
Mr. M.R.Mandawgade, OSD, Court Receiver, present.

CORAM: S.J. KATHAWALLA, J.

DATE: 13th DECEMBER, 2016

P.C.:

1. An Order appointing the Court Receiver was passed by this Court on 18th March, 2016 and uploaded on 26th April, 2016. The Petitioner and their Advocate thereafter failed to lodge the said Order with the Office of the Court Receiver. The Court Receiver has therefore, taken out the above Report seeking the following reliefs :

> "(a) The Court Receiver may be discharged in view of non-lodgment of Petition along with the order by the petitioner company;
> (b) The cost of this Report may be awarded in the sum of Rs.3,000/- and the Petitioner may be directed to deposit the same with the Court Receiver;"

2. After the said Report was served on the learned Advocate for the Petitioner, the aforementioned Order was lodged after almost eight months with the Office of the Court Receiver by the Advocate for the Petitioner.

3. Orders appointing the Court Receiver are obtained from Court/s by finance companies like the Petitioner by representing that the Respondent is likely to create third party rights in respect of the property as regards which the appointment of the Court Receiver is sought. Thereafter, to avoid making the initial deposit with the Court Receiver as required in the Rules, the *modus operandi* used by financial institutions like the Petitioner, is not to lodge the order with the Office of the Court Receiver, but to directly approach the debtors and ask them to pay the dues, and also warn them, that if they fail to do so, the Court Receiver would take possession of the premises. It is only when the Respondent fails to make payments despite the aforestated warning, that the finance companies lodge the orders obtained from the Court with the Office of the Court Receiver. Such conduct on part of the finance companies is dishonest and unfair, and is strongly deprecated.

4. As stated earlier even in the present case, it is only after the Court Receiver filed the present Report seeking his discharge on the ground of non-lodgment of the Order dated 18th March, 2016, that the Advocate for the Petitioner lodged the said Order with the Office of the Court Receiver i.e. eight months after the order was uploaded. The only reason given for such conduct is that it was due to inadvertence

on the part of the Petitioner. When the Court raised a query as to what was the inadvertence, no answer was forthcoming. The question of inadvertence does not arise, since an urgency was made out in the matter, and an order was obtained on a representation that the Respondent was likely to create third party rights in respect of his properties. However, since the Petitioner has now lodged the Order of this Court appointing the Court Receiver, the Order discharging the Court Receiver is not passed, but the Petitioner and their Advocates are warned that if in future this conduct is repeated, the Court shall take stern action against them.

5. The above Report is accordingly disposed of. The cost of the Report quantified at Rs.3,000/-, shall be paid by the Petitioner within a period of one week from today.

6. A copy of this Order shall be forwarded by the Prothonotary and Senior Master of this Court to the Managing Director of L & T Finance Limited.

(S.J.KATHAWALLA, J.)