

JSN

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
COURT RECEIVER'S REPORT NO. 777 OF 2015
IN
SUIT NO. 574OF 2015

Pushpa Bhadrakumar Savjani and Another ... Plaintiffs
Versus
Samir Bhadrakumar Savjani and Another ... Defendants

Mr. Jayesh Mistry, *i/b RMG Law Associates for the Plaintiffs.*
Mrs. Aparna Deokar, *i/b V.B. Thadani for Defendant No.1.*
Mr. D. Patil, *i/b T.R. Yadav for Defendant No.2.*
Mr. Abhishek Rane, *for M/s Nadkarni and Associates for the valuer.*
Mrs. K.Y. Ambekar, *Ind Assistant to the Court Receiver is present.*

CORAM: G.S. PATEL, J
DATED: 7th December 2016

PC:-

1. The present controversy in this Court Receiver's Report is about the bill of fees of M/s Nadkarni & Associates for valuation of Flat No. 60, 8th Floor, Mount Unique Co-Operative Housing Society Ltd, Pedder Road, Bombay 400 026. M/s Nadkarni & Associates were appointed directly by an order dated 19th August 2015 to make a valuation of a flat (*i.e.*, the firm was not appointed through the Court Receiver). The Court Receiver was not appointed of that flat.

2. after inspecting flat, taking measurements and photographs, M/s Nadkarni & Associates submitted a report dated 5th September 2015. The accompanying bill was of Rs. 9,87,240/-. Initially, both sides were directed to make payment. The Plaintiff paid 50%, *i.e.*, Rs.4,93,620/- and M/s Nadkarni & Associates paid the service tax on this amount. The 1st Defendant opposed this bill of costs saying that it was beyond the amount permitted by our Rules and prescribed scale of fees.

3. Rather than get into an extended controversy and determination, both sides have agreed that the matter may be settled by payment of Rs.1 lakh each to M/s Nadkarni & Associates, irrespective of the prescriptions as to fees. M/s Nadkarni & Associates agree to accept this in full and final satisfaction of their bill.

4. The 1st Defendant deposited an amount of Rs.4,93,620/- with the Court Receiver and which the Court Receiver presently holds.

5. The Court Receiver's Report, therefore, can be disposed of with the following directions:

- (a) From the amount of Rs.4,93,620/- deposited with the Court Receiver by the 1st Defendant, the Court Receiver will pay an amount of Rs. 1 lakh to M/s Nadkarni & Associates;

- (b) The Court Receiver will refund and return the balance with interest, if any, to the Advocates for the 1st Defendant.
 - (c) M/s Nadkarni & Associates will refund an amount of Rs.3,93,620/- to the Plaintiff by an instrument drawn in favour of the present 3rd Defendant who was originally the 2nd Plaintiff, Mr. Jagesh Bhadrakumar Savjani, since it was he who made the payment.
 - (d) M/s Nadkarni & Associates will be entitled to a *pro rata* refund of service tax, and service tax will be payable only on the aggregate amount of Rs. 2 lakhs (Rs. 1 lakh received from either side).
 - (e) The Court Receiver has copies of M/s Nadkarni & Associates' report as also all accompanying documents such as drawings and photographs. Copies of these are to be made available to the Advocates for the both sides.
6. The Court Receiver Report is disposed of in these terms.
7. All concerned to act on an authenticated copy of this Order.

(G. S. PATEL, J.)