

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

**CIVIL APPLICATION NO.1009 OF 2017
IN
FIRST APPEAL NO.1774 OF 2009**

Associates Corporation of
Industries (India) Pvt. Ltd. ... Applicants/Appellants
Versus

Mr. Gautam Chatterjee I.A.S.
Director General of Shipping And Others ... Respondents

**WITH
CIVIL APPLICATION NO.521 OF 2017
WITH
CIVIL APPLICATION NO.523 OF 2017
IN
FIRST APPEAL NO.1774 OF 2009**

Associates Corporation of
Industries (India) Pvt. Ltd. ... Applicants/Appellants
Versus

M/s K. Dhingra, IAS, Director General
of Shipping And Others ... Respondents

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Mr. Denzil D'Mello for the Applicants/Appellants.
Dr. M.S. Deshpande, Court Receiver present.
Mr. Hitendra S. Bowlekar, Chief Administrative-cum-Accounts Officer of
Seafarers' Welfare Fund Society.

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CORAM : S.C.GUPTE, J.

DATE : 27 APRIL 2017

P.C. :

. This Civil Application is taken out by the Applicants/Appellants
inter alia for directing Respondent No.16 Seafarer's Welfare Fund Society,

a public trust registered under the Bombay Public Trusts Act (“society”), to hand over a portion of premises at 1st Floor, Commerce House, Currimbhoy Road, Ballard Estate, Mumbai-400 038.

2 The Applicants/Appellants are tenants of one S.M. Kadri, who is the owner of the building. The Applicants/Appellants had allowed the society to make use of a portion of the tenanted premises. A court receiver was appointed in a suit filed by the Mumbai Port Trust (“MbPT”) against S.M. Kadri for obtaining vacant possession of the land below the building and recovery of arrears of rent and compensation. There was a decree in favour of MbPT in that suit. In execution proceedings filed by MbPT, the court receiver was appointed as receiver in respect of the building. The receiver came to be discharged by an order dated 26 September 2016 on Court Receiver's Report No.59 of 2006. By this order, the receiver was directed to hand over possession of the property back to the party/parties from whom he had taken possession thereof. The receiver, discharged in the matter, was once again reappointed and finally came to be discharged by an order dated 24 January 2017. Whilst passing this order of discharge, once again this Court directed the receiver to hand over keys of the property/premises to those parties from whom the keys were taken.

3 The court receiver informs the Court that he is in the process of handing over the keys to the parties, for which an appointment has been fixed on 29 April 2017. The present application concerns premises which were in occupation of the society. The receiver clarifies that the keys with respect of these premises was not handed over to the receiver earlier. Both Respondent No.1 as well as Applicants/Appellants confirm this position.

The society, who appears today through Mr. Hitendra S. Bowalekar, Chief Administrative-cum Accounts Officer, informs the Court that it had applied to the court receiver to take over keys and it is prepared to hand over the keys even today. Since the court receiver has already taken discharge, no purpose would be served in handing over the keys to the court receiver. On a query by the Court, as to whether they are prepared to hand over the keys to the Applicants/Appellants, the society expresses its willingness to do so. Accordingly, Respondent No.16 society is permitted to hand over the keys of the premises being 1st Floor, Commerce House, Currimbhoy Road, Ballard Estate, Mumbai-400 038 to the Applicants/Appellants. The civil application is disposed of in above terms.

4 Since the First Appeal concerns merely the premises, which were the subject matter of the civil application as noted above, learned Counsel for the Applicants/Appellants seeks leave to withdraw the First Appeal. The First Appeal is dismissed as withdrawn. No order as to costs.

5 The two other applications, namely, Civil Application Nos.521 of 2017 and 523 of 2017, are also dismissed as withdrawn.

6 Learned Counsel for the Applicants/Appellants confirms having received the keys of the premises from Respondent No.16 society.

(S.C. GUPTE, J.)