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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
APPEAL FROM ORDER NO. 462 OF 2017
AND
APPEAL FROM ORDER NO. 463 OF 2017
WITH
CIVIL APPLICATION NO. 592 OF 2017
AND
APPEAL FROM ORDER ST NO. 14345 OF 2017
WITH
CIVIL APPLICATION ST NO. 14346 OF 2017

Kalpesh Babulal Jain & Anr	...Appellants
<i>Versus</i>	
Sheikh Abdul Kased & Ors	...Respondents

Mr Ranjit Thorat, Senior Advocate, with Dharam Sharma & Uma Sharma, i/b Dharam & Co., for the Appellants.
Mr PS Dani, Senior Advocate, i/b Sukeshi Bhandari, for Respondents Nos. 1 & 2.
Mr Ankit Rajput, i/b Rajesh Jain, for Respondents Nos. 3, 5 & 6.

CORAM: G.S. PATEL, J
DATED: 20th July 2017

PC:-

1. By consent, the following order is passed:
2. Rule returnable forthwith. All three Appeals from Order are taken up for hearing and final disposal.
3. The impugned order dated 8th May 2017 is, by consent, set aside.
4. The Court Receiver, High Court, Bombay is appointed as Receiver of the property being
 - (a) all that piece of land situate at Shankar Pupala Road and 13th Kamathipura Street bearing Collector's Rent Roll Nos. 7128 and 9897 and Laughton's survey No. 2/6426 admeasuring about 241.60 sq mtrs with structure standing and bearing CS No. 285 of Byculla Division,
 - (b) all that piece of land situate at Shankar Pupala Road and 13th Kamathipura Street bearing Collector's Rent Roll Nos. 1/7128 and 9897 (part) and Laughton's survey No. 2/6428 admeasuring about 173.90 sq mtrs with structure standing and bearing CS No. 1/285 of Byculla Division;
 - (c) all that piece of land situate at Shankar Pupala Road and 13th Kamathipura Street bearing Collector's Rent Roll Nos. 4420 and 10045 and Laughton's survey No.

6427 admeasuring about 180.60 sq mtrs with structure standing and bearing CS No. 284 of Byculla Division, under Order XL Rule 1 of the Code of Civil Procedure, 1908.

The Court Receiver to take symbolic/notional possession of the suit property forthwith. The tenants/occupants shall not be dispossessed. There will be no requirement of royalty or security. The Court Receiver shall accept rent from those occupants who are admitted as tenants by the Appellants and Respondents Nos. 1 and 2. The Court Receiver shall make an inventory of the tenants/occupants. The Court Receiver shall demand and collect documents from each of the occupant including (i) rent receipts; (ii) electricity bills, (iii) ration card, and (iv) any other document that the occupant may submit under which the occupant claims to be entitled to continue in possession.

5. The Appellants and Respondents No. 1 and 2 shall both give to the Court Receiver within three weeks from today complete details of their respective rent eviction suits, i.e. RAE Suits, instituted by them against tenant/s at the suit property in the Small Causes Court at Bombay and status thereof. The Appellants and Respondents Nos. 1 and 2 undertake to furnish the Court Receiver with copies of the relevant documents if sought by the Court Receiver.

6. In the event that the Appellants or Respondent No. 1 and 2, as the case may be, obtain an eviction decree against any tenant/s,

the possession of suit premises in the decree shall be taken by and handed over forthwith to the Court Receiver.

7. The Appellants and Respondents Nos. 1 and 2 may institute future eviction proceedings against any tenant or occupant, but only with prior leave of this Court. In any event, the Appellants will be joined as parties to any eviction action filed by Respondents Nos. 1 and 2, and *vice versa*.

8. All rent, permitted increases, and arrears, if any, recoverable from the tenant/s or occupant/s of the suit property same will be recovered and collected by the Court Receiver. The Court Receiver may collect compensation from occupants but this collection shall not be, or deemed to be, a regularization of the occupancies, and the Court Receiver is not to issue any document that might have the effect of such a regularization.

9. Should the Court Receiver find that the amount collected by it is insufficient to meet outgoings, the Court Receiver may separately collect assessment tax, sewage and water charges from the tenants/occupants on a *pro rata* basis in proportion to the areas in their respective occupation as reflected from the assessment records of the MCGM.

10. The rent/compensation collected by the Court Receiver will be invested by the Court Receiver in fixed deposits with any nationalized bank and will be subject to further orders in appropriate proceedings.

11. The Respondent No. 1 and 2 will be entitled to recover/withdraw the amount if paid by them towards the property tax and repair cess in respect of the property described in item (a) above for the period from 1996 to 2017 from the rent or occupation charges collected by and in the hands the Court Receiver, or from the amounts, if any, deposited in the Court of Small Causes at Bombay as the case may be, subject to production of the original payment receipt/s issued by MCGM.

12. The Appellants who claims a 75% title in the property will, without prejudice to their rights and contentions, pay 75% of the property tax and repair cess due periodically. Consequently, Respondents Nos. 1 and 2 will, similarly without prejudice to all their rights and contentions, bear and pay 25% of the property taxes and repair cess.

13. This order will dispose of Notice of Motion No. 1784 of 2017 in SC Suit No. 1115 of 2017. The order appointing Court Receiver shall also operate in Suit (L) No. 393 of 2017 filed by the Appellants for partition of the suit property.

14. All the Appeals from Order are disposed of in these terms with no order as to costs.

15. All pending civil applications do not survive and are disposed of as infructuous.

(G. S. PATEL, J)