

Shephali

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
APPEAL FROM ORDER NO. 921 OF 2014
WITH
CIVIL APPLICATION NO. 1113 OF 2014
AND
COURT RECEIVER'S REPORT NO. 416 OF 2016**

Salma Asgarali Makti & Ors	...Appellants
<i>Versus</i>	
Raj Bucket Factory & Ors	...Respondents

Mr Amit Joshi, *for the Appellant.*
Ms Vrushali Uday Kabare, *for the Respondents.*
Dr MS Deshpande, *Court Receiver with Mrs Kavita Ambekar, Ist*
Assistant to the Court Receiver, present.
Mr SS Pachorawala, *Respondent No. 2, present in person.*
Mr P Pachorawala, *Constituted Attorney of the Appellant, present.*

CORAM: G.S. PATEL, J
DATED: 12th July 2017

PC:-

1. On instructions from the Constituted Attorney of the Appellant, who is present in Court, the Appeal is dismissed as withdrawn unconditionally.

2. A statement is also made that the Suit itself, i.e. Suit No. 6882 of 2004 will also be withdrawn unconditionally. Parties will appear before the City Civil Court on 27th July 2017 and obtain an order dismissing the Suit as unconditionally withdrawn. Even if the Plaintiffs do not remain present on that day, the Court will pass that direction so long as the Defendants are represented.

3. The Court Receiver was appointed of the property in question. There are some occupants/licensee in possession of portions of that property, in particular one Petrox Containers and one Multi Impression. The Defendants/Respondents confirm that these parties are in possession. They have not been dispossessed. The Court Receiver will hand back possession of the entire premises to the 1st Respondent firm (Defendant No. 3 in the suit). As regards the premises occupied by licensees or occupants, the return of possession by the Court Receiver is not to be construed as an order directing their eviction or dispossession. Those licensees/occupants will continue in possession of their own premises. It will be open to the 1st Respondent to initiate such steps as it is able to do in accordance with law for the termination of these licenses or for recovery of possession of these premises.

4. There are funds in the hands of the Court Receiver. Since the Suit and Appeal are being unconditionally withdrawn, the Court Receiver remit the entire amount with accrued interest to the 1st Respondent/3rd Defendant.

5. One of the properties is occupied by Defendant No. 1 (Respondent No. 2 to the Appeal) as an agent of the Receiver. He is the sole surviving heir of the original partners of the firm. Today, his wife and children are the other partners. The 1st Defendant will continue to occupy and possess those premises but the agency will be terminated, if not already done, without passing accounts.

6. So far as the shed occupied by Eden Textronics is concerned, this entity has quit the premises. The shed is locked and in the hands of the Court Receiver. The Court Receiver will deliver possession of it to the 1st Respondent/3rd Defendant.

7. The Appeal is disposed of in these terms. The Civil Application and the Court Receiver's Report are also disposed of. The Court Receiver to stand discharged without passing accounts.

(G. S. PATEL, J.)