

SHEPHALI

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
COURT RECEIVER'S REPORT NO. 16 OF 2017
IN
ARBITRATION PETITION NO.280 OF 2016**

Tata Capital Financial Services Ltd ...Petitioner
Versus
Rashpal Singh Anupsingh Dhillon ...Respondent

Mr Nilesh Gala, *i/b M/s. Law Square, for the Petitioner.*
Mrs Kavita Ambekar, *Ist Assistant to the Court Receiver, is present.*

CORAM: G.S. PATEL, J
DATED: 22nd February 2017

PC:-

1. On 21st April 2016, Kathawalla J appointed the Court Receiver. An authenticated copy of the order was lodged with the Court Receiver's office on 3rd May 2016. The Petitioners took no steps to lodge a certified copy of the order, despite Rule 596 of the Bombay High Court (OS) Rules:

596. Certified copy of the minutes of the decree order to be served on the Receiver.— In a suit or matter where a Receiver has been appointed, a **certified copy of the minutes of the decree or order containing provisions which directly or indirectly concern the Receiver** shall be served on the Receiver by the party on whose

application the decree or order is passed within one week from the date of such decree or order.

(Emphasis added)

2. These requirements are compulsory unless dispensed with by an order of the Court, and of which there is none.
3. By 4th August 2016, without serving the Court Receiver with a certified copy of the order, the Petitioners settled the matter and then applied in Chamber Summons No. 1405 of 2016 for an order discharging the Court Receiver, which the Petitioners obtained on that day. The Receiver stood discharged.
4. I hardly need to comment on what this indicates. It is self-evident.
5. The present Report also seeks a discharge.
6. The Order dated 4th August 2016 does not indicate that the Court Receiver was present on the date when he was discharged. No appearance is shown of any of the representative of the Court Receiver before the Court on that day.
7. Proceedings under Section 9 of the Arbitration & Conciliation Act, 1996 are not to be used as some fast-track recovery process or to bypass the provisions of the statute or our Rules. *Prima facie*, this practice of obtaining sweeping orders under Section 9, including of receivership, and then using these to bring about 'settlements' while

turning a blind eye to our processes and requirements is to be deprecated.

8. The Court Receiver has already been discharged. I see no reason to continue with any order in this Section 9 petition. The Arbitration Petition is dismissed. All previous orders are vacated forthwith.

9. The Court Receiver's report is disposed of. The costs of the report are to be paid by the Petitioner within two weeks from today.

10. I am making it clear that this is a final warning. If I find one more instance of this, I will impose costs on the Petitioner(s).

(G. S. PATEL, J.)