

IN THE HIGH COURT OF JUDICATURE AT BOMBAY  
ORDINARY ORIGINAL CIVIL JURISDICTION

COURT RECEIVER'S REPORT NO.45/2017  
IN  
SUIT NO.2294/2008

M/s. Atul Builders & Associates & Anr. ... Plaintiffs

V/s.

Gitanjali Sheili Shailendra ... Defendant

Mr. Roop Vasudeo a/w. Dipali Mainkar for the plaintiffs  
Ms. Rhythima Sheili Shailendra, Constituted Attorney of the defendant.  
K. Y. Ambekar, 1<sup>st</sup> Asstt to Court Receiver.

**CORAM: K.K. TATED, J.**  
**DATED : SEPTEMBER 15, 2017**

**P.C. :**

1. Heard. In the present proceedings, the plaintiff has filed the suit before this court u/s.6 of the Specific Relief Act, 1963 for possession of the suit property as described in Exhibit-A to the plaint i.e. Rimjhim Bungalow situated at Plot No.289, 289A, 9<sup>th</sup> Khar Road, Khar (West), Mumbai – 400052.

2. In that suit the Court Receiver is appointed in respect of the ground floor premises. The defendant Geetanjali Shaili Shailendra is in possession of the first floor of the suit premises. In the present proceedings, the Court Receiver in paragraph 1 of the report stated that the matter was listed on 24.02.2017 before this court (Coram : S. J.

Kathawalla, J.) in Chamber at 5.00 pm. After hearing the parties, this court has directed the Court Receiver to visit the suit premises and submit a report. Pursuant to the said directions, the Court Receiver deputed their representative for site visit. The representative of the Court Receiver noticed that most of the windows are broken, walls are cracked and are infested with termites. The premises are not in good condition and on the verge of collapse.

3. When the Court Receiver's Report was on board before this court (Coram : S. C. Gupte, J.) on 14.07.2017, at that time, after hearing both sides, this court directed the Court Receiver to appoint a designated Structural Engineer on his panel to visit the premises in occupation of the Court Receiver on the ground floor of the bungalow and make his report on the condition of the premises. Pursuant to the said directions, the Court Receiver appointed Amol Bora and Co., Structural Engineer to visit the suit premises. The Structural Engineer has submitted a report dated 08.08.2017 along with photographs. The Structural Engineer has given his conclusion/ opinion as under:

- “a. Overall structural condition of the bungalow is very poor.*
- b. The structure is old and cannot bear the load which is enforced upon it.*
- c. In our opinion, repair works of the structure is not feasible.*
- d. The repairing cost of such building/construction will be too high and strengthening work of such type of structure will further increase the repair cost.*
- e. It is recommended that the structure has to be demolished and reconstructed.*

*f. We opine that the habitats from the said bungalow has to be immediately vacated & further demolish the structure.”*

4. Pursuant to the said report, the Court Receiver moved this court today again.

5. The party in person has strongly objected to the report submitted by Amol Bora & Co. and submits that it is not as per the site. She submits that she has also placed on record an opinion obtained by her from her Architect Siddhant Tikkoo. She submits that as per the opinion of her Architect, it is necessary to carry out some repairs.

6. As both the parties are not ready and willing to cooperate with the Court Receiver in protecting the suit premises, I am of the opinion that it is necessary to permit the Court Receiver to move the Brihanmumbai Municipal Corporation for taking appropriate action with regard to the said structure.

7. Hence, following order is passed:

a. The Court Receiver is directed to forward all the relevant papers of Rimzhim Bungalow, Khar (W), Mumbai – 400 052 to the Municipal Corporation for taking appropriate action according to law.

b. In view of the above mentioned facts the Court Receiver's Report stands disposed of.

c. The plaintiff to deposit cost of Rs.3000/- in the office of the Court Receiver within four weeks from today.

**(K.K. TATED, J.)**