

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

**COURT RECEIVER'S REPORT NO.151 OF 2017
IN
HIGH COURT SUIT NO.5207 OF 2000**

Pushpa Madhag Wagle .. Plaintiff

vs.

Smt.Shakuntala Keshav Karle .. Defendant

Ms.Jaishree Surati i/b M/s.S.Ashwinikumar and Co. for the plaintiffs
Mr.M.R.Mandawgade, Dy.Reg. OSD to Court Receiver present

**CORAM : K. K. TATED, J.
DATE : OCTOBER 5, 2017**

PC.:

1. Advocate for the plaintiff filed praecipe for speaking to minutes of order dated 22.9.2017 passed by this court. On her request matter is taken on board.
2. The learned Counsel for the plaintiff submits that on page 3 paragraph 5 line 3 instead of "*plaintiff no.5*" it should be "*plaintiff no.6*". So also on page 3 paragraph 5c line 2 instead of "*plaintiff no.5*" it should be "*plaintiff no.6*".
3. Same is corrected.
4. Rest of the order remains as it is. The original order shall stand corrected accordingly.

(K.K.TATED, J.)

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.. Plaintiff

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.. Defendant

Ms.Jaishree Surati i/b M/s.S.Ashwinikumar & Co. for the plaintiffs

Mr.Mranal Mandhane i/b Mr.Gaurav Gokhale for the defendants

Mr.K.Y.Ambekar, 1st Assistant to Court Receiver

CORAM : K. K. TATED, J.

DATE : SEPTEMBER 22, 2017

PC.:

1. Heard.
2. Court Receiver's report shows that in the present proceeding, Receiver was appointed in respect of the land bearing Survey No.41, Hissa No.1, C.T.S.No.280 of Borivali Village, Borivali (W), Mumbai 400 092 and the land bearing Survey No.41, Hissa No.4, C.T.S.No.309, Village Borivali on Eksar Road, Borivali (West), Mumbai 400 092 by order daed 16.10.2002 passed by this court (Coram: D.K.Deshmukh, J.) in Notice of Motion No.472 of 2001. Thereafter, Court Receiver appointed defendant no.1 as agent to look after the suit land. He was

put in possession. Pursuant to the possession of the suit property, defendant no.1 executed the agency agreement with the Court Receiver. Recently, original defendant no.1 expired. As soon as the office of the Court Receiver learnt these facts, Court Receiver submitted the present report for following directions:

“(i) To whom the Court Receiver should appoint an agent in respect of the suit lands and upon what terms and conditions including payment of royalty and security?”

“(ii) Costs of this report for the sum of Rs.3,000/- may be deducted from the funds in the hands of the Court Receiver herein.

“(iii) Any other directions that this Hon'ble Court may deem fit and proper in the matter may be passed.”

3. The learned Counsel for the plaintiff as well as defendant filed their affidavit dated 15.9.2017 respectively. The defendant no.1(c) one of the legal heir of original defendant no.1 filed affidavit dated 15.9.2017 on behalf of all the legal heirs. In their affidavit, they stated that they have no objection if Court Receiver is discharged in respect of the suit property and possession be handed over to the plaintiff. In similar way, plaintiff no.5 also filed affidavit dated 15.9.2017.

4. The learned Counsel for the plaintiff submits that in view of the affidavit filed by the defendant, Court Receiver may be discharged with a direction to hand over possession of the suit property to the plaintiff.

She further makes a statement that she received instruction from her client to make a statement before this court that plaintiffs are ready and willing to bear all the expenses of the Court Receiver. She further submits that as soon as they get notice in writing from the Court Receiver for their charges, they will clear the same within four weeks thereafter, failing which they will pay interest @ 8% p.a.

5. At this stage, the learned Counsel for the plaintiff submits that Court Receiver may be directed to hand over possession of the suit property to the plaintiff no.6. Same is permitted subject to other plaintiffs give no objection in the office of Court Receiver. In view of above mentioned facts, following order is passed:

- a) Court Receiver stands discharged as the Receiver of the suit property with immediate effect.
- b) Plaintiff to pay all charges of the Court Receiver before taking possession of the suit property.
- c) Court Receiver is directed to hand over possession of the suit property to plaintiff no.6, on getting no objection from remaining plaintiffs and their charges.
- d) Court Receiver Report No.151 of 2017 stands disposed of accordingly.

(K.K.TATED, J.)