

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

COURT RECEIVER'S REPORT NO.177/2017
IN
SUIT NO. 966/1982

The Kuria Nagrik Sahakari Bank Ltd. ... Plaintiff

V/s.

Chandrashekhar Mahadev Tiwari & Ors. ... Defendants.

Mr. G. S. Manaswala for the plaintiff
Mr. R. R. Varma i/b A. M. Saraogi for Shamim Modak, Occupant of flat
No.15 and 16.
Dr. M. S. Deshpande, Court Receiver.

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

P.C. :

1. Heard the learned counsel for the parties. The Court Receiver has submitted this report pursuant to the notice dated 24.03.2017 issued by the corporation directing to pay sum of Rs.20,32,284/- towards municipal taxes and notice dated 03.05.2017 u/s.353(B) of the Mumbai Municipal Corporation Act, 1888 directing to obtain structural stability report.

2. The Court Receiver submits that he has called upon the parties to cooperate to take structural stability report as well as for making the payment of Municipal Corporation taxes. He submits that neither the plaintiff nor the defendants are cooperating in the matter.

3. In the present proceedings, by order dated 03.05.2005 passed by this court (Coram : A. S. Aguiar, as he then was), the Court Receiver was discharged in Report dated 22.03.2005. Thereafter the plaintiff the Kurla Nagrik Sahakari Bank Ltd. filed Notice of Motion No.2869/2005 for setting aside the order dated 03.05.2005 and for appointment of Court Receiver, High Court in execution of decree. Said Notice of Motion was allowed by this court (Coram : A. V. Nirgude, J.) by order dated 14.08.2008. Hence, as of today the Court Receiver is appointed at the request of the plaintiff.

4. Considering these facts, it is the duty of the plaintiff to cooperate with the Court Receiver to discharge his duties in respect of the present matter. In the present matter, the corporation has called upon the Court Receiver to make payment and taxes and to obtain structural stability report.

5. Hence, following order is passed:

a. The plaintiff is directed to obtain structural stability report of the suit premises within four weeks from today as directed by the corporation in notice dated 03.05.2017 u/s.353(B) of the Mumbai Municipal Corporation Act, 1888.

b. The plaintiff is also directed to take appropriate steps for clearing the taxes of the Municipal Corporation immediately and recover the same from the concerned persons, if they so desire.

c. In the meantime, liberty granted to the Court Receiver to

intimate the present position of the suit structure to the corporation, in writing for taking appropriate steps / action if they so desire.

d. The plaintiff to comply with prayer clause (a) of the Court Receiver's Report within four weeks from today. Prayer clause (a) reads thus:

“(a) Since the suit building known as 'Shekhar Apartment' is in dilapidated condition the defendants/owners may be directed to obtain structural stability report as per notice u/s.353(B) required by BMC and to take further steps as per report.”

e. The Court Receiver's Report stands disposed of accordingly.

(K.K. TATED, J.)