

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

COURT RECEIVER'S REPORT NO.190/2017
IN
SUIT NO.4913/2000

Nadeem M. Oomerbhoy

... Plaintiff

Vs.

Rashid Sattar Oomerbhoy & Ors.

... Defendants

Ms. Nisha Shah i/b. Kalpesh Joshi Associates for defendant No.1.

Mr. Mayur Khandeparkar a/w. Z. A. Jariwala i/b. Thakore Jariwala & Associates for the plaintiff

Mr. Rahul R. Singh for defendant Nos.2, 3, 4(a) and 4(c).

Ms. Usha Tiwari for the Benhur Society.

Dr. M. S. Deshpande, Court Receiver.

Mr. M. R. Mandawgade, O.S.D. of Court Receiver.

CORAM : K. K. TATED, J.

DATE : SEPTEMBER 15, 2017

PC.:

1. Heard. The Court Receiver has submitted this report in view of the notice dated 30.08.2017 issued by the Municipal Corporation u/s.354 of the Mumbai Municipal Corporation Act, 1888 (said Act) calling upon the Court Receiver to take appropriate action to pull down the structure as under:

a. To demolish the entire ground + 3 aforesaid vacant structure which is in dilapidated / dangerous condition known as M/s. Bombay Soap Factory, situated on plot bearing C.S.No.2/1534 of Byculla Division at Hussaini Baug, Maulana Azad Road, Byculla (W), Mumbai – 400008.

b. Deteriorated building wall on north side adjacent to the building known as Karuna building shall be pull down within 24 hours and remaining dilapidated portion of the said building.

2. The Court Receiver submits that as on today, they are not in possession of the building known as M/s. Bombay Soap Factory. He submits that the plaintiff and defendant are disputing their right as a partner of partnership firm known as Bombay Soap Factory. In view of these facts, the Court Receiver seeks permission from this court to inform the Municipal Corporation to take appropriate action, if they so desire against the plaintiff and the defendant in the present suit in respect of the notice u/s.354 of the said Act.

3. The learned counsel for the plaintiff and the defendant submits that they have no objection if the Court Receiver informs the Municipal Corporation in respect of the dilapidated condition as per notice u/s.354 of the said Act, if they so desire and if they get intimation or notice from the corporation, they will take appropriate steps to that effect.

4. It is to be noted that, the Court Receiver submits that the Belgium Solvent Plant is situated in the premises of the Bombay Saof Factory as per the Site Report Exhibit-E, G & H annexed to the present Court Receiver's Report. The Court Receiver further pointed out that they have already given intimation to the Municipal Corporation for today's hearing of the Court Receiver's Report. She has also shown an acknowledgement on their letter dated 14.09.2017. In spite of service of notice, none appeared on behalf of the corporation.

5. In view of these facts, following order is passed:

- a. Liberty granted to the petitioner Court Receiver to inform the corporation the names and address of the plaintiff and the defendant in the suit for issuing a fresh notice, if they so desire, u/s.354 of the Mumbai Municipal Corporation Act, 1888 in respect of the structure known as M/s. Bombay Soap Factory, situated on plot bearing C.S.No.2/1534 of Byculla Division at Hussaini Baug, Maulana Azad Road, Byculla (W), Mumbai – 400008 more particularly mentioned in Notice dated 30.08.2017 u/s. 354 of the said Act.
- b. The Court Receiver is also directed to inform the corporation that Belgium solvent Plant is situated within the premises of M/s. Bombay Soaf Factory.
- c. The Court Receiver to take appropriate steps immediately pursuant to this order.
- d. The Court Receiver's Report stands disposed of accordingly.

(K. K. TATED, J.)