

Vidya Amin

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

**APPEAL FROM ORDER (ST.) No. 36303 OF 2017
WITH
CIVIL APPLICATION (ST.) No. 36307 OF 2017**

Chandrakishore Kashiram Gupta (Decd.)
through LRs Malti C. Gupta & Ors. ... Appellants/Applicants
Vs.

Sharadaprasad Kashiram Gupta (Decd.)
thorough LRs. Savitridevi S. gupta & Ors. ... Respondents

Mr. Bhushan V. Mahadik, Advocate for the appellants/applicants.
Mrs. Ishita Shah a/w. Kiran Mohite, Advocate for respondent no. 2.

CORAM: **MRS.MRIDULA BHATKAR, J.**
DATE: **15th January, 2018.**

P.C.:

Upon mentioning, taken on production board.

2. The learned counsel for the appellant/original defendant No. 1 has taken out this Appeal from Order challenging the order dated 8th December, 2017 passed by the learned Judge, City Civil Court, Greater Mumbai in Notice of Motion No. 4064 of 2015 in S.C. Suit No. 6781 of 2001 wherein it is prayed that the Court Receiver to take physical possession of suit premises at Ganjawala Building and shop premises at Bhatia Niwas and direct the legal heirs of the parties to give undertaking that they shall not create third party interest in the suit premises. The trial Court has directed the Court Receiver to take

steps to call bids for appointment of agent of the Court Receiver in respect of shops at Bhatia Niwas and Ganjawala Building and the highest bidder shall be appointed as an agent of the Court Receiver. It is also further stated that in case, the legal heirs of the late original plaintiff and original defendant nos. 1 and 2 submit an Agreement for running the business as agent of the Court Receiver by rotation, then the Court Receiver shall consider the same and shall not call bids.

3. Perused the earlier order of this Court dated 23rd January, 2004. The original plaintiff, i.e., respondent No. 1 in the Appeal from Order has filed the suit for dissolution of the partnership firm and this Court by order dated 23rd January, 2004 has appointed the Court Receiver to look after the business, which are run in the property, i.e., at Bhatia Niwas and Ganjawala building. By way of interim arrangement, the Court Receiver has appointed original plaintiff and original defendant No. 2 as agent to run the shop at Ganjawala building by rotation. The said arrangement continued till 2016, as the original plaintiff and original defendant No. 2 are now dead. Similarly original defendant No. 1 was appointed as agent of the Court Receiver of the shop at Bhatia Niwas. The original defendant No. 1 is also dead.

4. In view of these developments and considering the orders passed earlier and the impugned order under challenge, I am of the view that same arrangements to continue in future and the legal heirs of the respective parties are appointed as agents of the Court Receiver in place of their respective predecessors. The arrangement of working as agent of Court Receiver between the legal heirs of original plaintiff and the legal heirs of original defendant No. 2 by rotation to continue till the conclusion of the suit. Similarly, the legal heirs of original defendant No. 1 to continue to act as agent of Court Receiver of shop in Bhatia Niwas.

5. The legal representatives of the parties shall give undertaking before the trial Court that they shall not create any third party interest and in any manner shall not alienate, transfer the property in favour of any other person without the permission of the trial Court. The trial Court to proceed with the matter.

6. With this, Appeal from order is disposed of. Civil Application is also accordingly disposed of.

(MRIDULA BHATKAR, J.)