

Shephali

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
COURT RECEIVER'S REPORT NO. 78 OF 2018
IN
SUIT NO. 2561 OF 2012**

Zulkarnain M Kagalwalla ...Plaintiff

Versus

Mumtaz Hussain M Kagalwalla & Ors ...Defendants

Mr Hamed Kadiani, *Ms Kavisha Shah, Kunal Jain, i/b India Law Alliance.*

Mr Uday Warunjikar, *with Siddhesh Pilankar, for Defendant No. 2.*

Mr DR Shetty, *Court Receiver, present.*

CORAM: G.S. PATEL, J

DATED: 19th June 2018

PC:-

1. Pursuant to my order of 4th June 2018, the Receiver has prepared a break-up of the license fees deposited by the 2nd Defendant and by the agent of the Court Receiver Arjun Taware in respect of the premises in question. The total amount deposited by the 2nd Defendant with interest is Rs.73,85,961/- although I notice that there are significant amounts deducted as commission by the Court Receiver and which I will presently keep in abeyance.

2. Part B of the report is of the license fees deposited by the Court Receiver's Agent, Arjun Taware and the amount is Rs.34,77,032/-. I will accept the amounts of commission claimed in regard to this figure.

3. Parties are agreed that pursuant to previous orders passed, the Plaintiff has a 2/7th share. Defendants Nos. 1 and 2 each have 2/7th share and Defendant No. 3 has a 1/7th share. The amount of Rs.34,77,032/- can, therefore, be distributed amongst the four parties in these proportions.

4. As regards the amount deposited by the 2nd Defendant, that has a separate factual background. It is Mr Warunjikar's submission on behalf of the 2nd Defendant that it is only his client who is entitled to this amount in its entirety. This is contested by the Plaintiff and presumably Defendants Nos. 1 and 3 who say, on the other hand, that even this amount is to be shared in the same proportions. This is not a matter that can be decided on an oral application across the Bar. There will need to be a substantive application and parties will have to be heard after they have given an opportunity of filing Affidavits. Mr Warunjikar has instructions to make necessary application. He will make that application on or before 2nd July 2018. Affidavit in Reply to be filed and served on or before 20th July 2018. No Rejoinders without leave of the Court. I will take up the application which I presume will be in the form of a Chamber Summons or a Notice of Motion on 24th July 2018 at 3.00 pm.

5. The Court Receiver's Report is disposed of in these terms.

(G. S. PATEL, J)