

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

WRIT PETITION NO.14352 OF 2017

**M/S ASHAPURA AGRO OIL PVT LTD THROUGH ITS
DIRECTOR BHAGWANDAS SHIVAJI BHANUSHALI
VERSUS
JAYANTILAL KESHAVJI CHHEDA AND OTHERS**

...

Advocate for the Petitioner : Shri R. R. Karpe
Advocate for Respondent Nos. 1 to 4 : Shri S. S.

Gangakhedkar

Advocate for Respondent No. 5 : Shri P. B. Vikhe

...

CORAM : RAVINDRA V. GHUGE, J.

DATED : 14th JUNE, 2019.

...

PER COURT :

1. The petitioner is aggrieved by the direction at Clause 3 of the order dated 09/05/2017 issued by the executing Court below application Exhibit 13 in Special Darkhast No. 5/2017.

2. I have heard the learned Advocates for the petitioner and the respondents.

3. The petitioner is the decree holder, who filed an application for appointment of a court receiver. Special Civil Suit No. 10/2016 was decreed as per the terms of the

compromise dated 14/09/2016 filed below Exhibit 17 in Special Civil Suit No. 10/2016.

4. Considering the time schedule agreed upon in making the payment to the decree holder in order to satisfy the decree, the judgment debtors issued cheques which were dishonoured. Hence the decree holder filed execution proceedings. The executing Court recorded the fact that the parties had agreed to appoint respondent No.5, a practising Advocate, as the Court receiver for taking custody of the properties and sell the properties by public auction for recovery of amounts.

5. The executing Court recorded in paragraph 3 that some cheques issued by the judgment debtor to the decree holder were dishonoured. The terms of compromise indicated that the properties mentioned therein would be handed over by the J.D. to the court receiver for custody and further steps to satisfy the decree.

6. By the impugned order, the executing Court has recorded as under :

- "1. *The application is allowed.*
2. *Advocate Shri V. K. Patare is appointed as the Court Receiver as per the terms of compromise Exh. 18 as well as compromise decree.*
3. *The receiver is ordered to furnish security of Rs. 50,00,000/- in respect of property in possession and to take the possession of the property as mentioned in exhibit No.18.*
5. *The duties and obligation of the Court Receiver will be as per the provision of Order XL of the Civil Procedure Code.*
6. *The Court Receiver is directed to furnish the report by taking possession of the property and submits the report to the Court every month along with the bills, receipts etc. about the expenses.*
7. *The Court Receiver is directed to take care of the property and maintain it.*
8. *The D.H. and J.D. are directed to provide all the necessary help for the work of Court Receiver.*
9. *The D.H. and J.D. are directed pay the remuneration and maintenance amount Rs. 20,000/- per month to the Court Receiver as per pursis Exh. 15 and the compromise Exh.18."*

7. The decree holder as well as respondent No. 5, who is the Court receiver, are aggrieved only by the direction at Clause 3. Respondent No. 5 submits that he does not have

such a huge amount with him to furnish as a security. He is also unable to tender a bank guarantee for the said amount.

8. The learned Advocate for the petitioner decree holder submits that an amount of Rs. 15,00,000/- would be an appropriate security to be furnished by respondent No.5. The learned Advocates appearing for the judgment debtors and the court receiver are agreeable.

9. In view of the above, the petition is partly allowed. Clause 3 of the impugned order reproduced above shall be modified only to the extent of replacing the figure Rs. 50,00,000/- with the figures Rs. 15,00,000/- (Rupees Fifteen Lakhs only). The rest of the order, therefore, stands and is operable.

(RAVINDRA V. GHUGE, J.)

shp/-