

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION**

CRIMINAL APPLICATION NO. 111 OF 2019

IN

CRIMINAL APPLICATION NO. 293 OF 2000

WITH

CRIMINAL APPLICATION NO. 5496 OF 2004

IN

CRIMINAL APPLICATION NO. 268 OF 2004

WITH

CRIMINAL APPLICATION NO. 1046 OF 2018

IN

CRIMINAL APPLICATION NO. 293 OF 2000

WITH

CRIMINAL APPLICATION NO. 5496 OF 2004

IN

CRIMINAL APPLICATION NO. 268 OF 2004

Sameer Abubakar Lakhani

... Applicant

Vs.

State of Maharashtra & Ors.

... Respondents

...

Mr. Kuldeep Patil I/by Mr. Seema Hummarkar for the applicant.

Ms. A.A. Takalkar, APP for the Respondent-State.

Mr. A.B. Malvankar, Section Officer, Court Receiver Office is present.

Mr. Suhas Sawant, Dy. Official Liquidator for Official Liquidator is present.

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CORAM : PRAKASH D. NAIK, J.

DATE : 25th JANUARY, 2019.

P.C.

1. Applicant in these applications have prayed for directions to the Court receiver to hand over the possession of the property viz “M/s Tarapur Paper Crafts Pvt. Ltd., situated at E-32/2, MIDC Tarapur Boisar, District Thane and Office premises of M/s S.K. Packaging, 658/659, Adarsh Nagar, New Link Road, Oshwara Junction, Andheri (West), Mumbai 400 058” to the applicant by discharging the Court receiver appointed by this Court. Learned Court Receiver as well as Official Liquidator is present in the Court.

2. According to applicant, he had preferred Criminal Application No. 293 of 2000 for bail in this Court in respect of Crime No. 110 of 1999 registered against him for the offence punishable under Section 420, 406, 120B and Section 3 and 4 of Maharashtra Ordinance 1999 for Protection of Interest of Depositors and Section 45 of Reserve Bank of India Act. It is contended that at the time of hearing of the said application, the applicant himself shown his willingness to give possession of his properties i.e M/s Tarapur paper Crafts Pvt. Limited situated at E-32/2, MIDC, Tarapur, Boisar, Dist. Thane and (2) office premises of M/s S.K. Packaging 658/659, Adarsh Nagar, New Link Road,

Oshiwara Junction, Andheri (West), Mumbai 400 058 to the Court Receiver and showed his bonafides to this Court. On account of the said statement of the applicant, the Court was pleased to appoint Court Receiver for the aforesaid properties. In pursuant to order and directions of the Hon'ble Court, the Court Receiver has taken symbolic possession of the aforesaid properties. Application for bail was dismissed for want of prosecution vide order dated 8th November, 2006. Learned counsel for the applicant submitted that directions regarding releasing the property attached in view of order dated 28th February, 2002, regarding discharge of the Court Receiver were not passed, as such the property of the applicant is still in possession of the Court Receiver, despite disposal of the Criminal Application No.293 of 2000 wherein the said property of the applicant was attached. It is further submitted that in 2011, the applicant had approached the office of Court Receiver for inquiries regarding the procedure for getting back possession of property. Applicant was informed by the Court Receiver that Court Receiver has filed report seeking necessary orders/directions from the Court for discharge and as to whom the possession of the said property be handed over and the same is pending. It is submitted that on 19th April, 2012, the report filed by Court

Receiver was on board and applicant also appeared through his advocate and submitted that possession of property is not yet handed over to the applicant and that this Court Receiver is not yet discharged. Learned advocate pointed out order dated 19th April, 2012 passed by this Court stating that various properties are under the control of Court Receiver. It was further observed that the properties shall remain under control of Court Receiver till further orders. If the party is interested in getting the properties out of the hands of the Court Receiver, such a party is free to make an application by making out the case. Such application to be decided on merits. The applicant contends that office of Assistant Police Commissioner Local Arm Force, Tardeo has written letter to the official liquidator on 21st May, 2018 requesting to furnish status of properties and assets of accused which includes aforesaid properties. The said letter was replied by its letter dated 19th June, 2018 by stating that as regards other properties referred in the said letter, the office has no information. It is submitted that properties were offered by applicant to show his bonafides pending his application which has been dismissed / disposed off. It is submitted that the applicant has handed over possession of several other assets and properties of B.K. Paper Mills which is

under liquidation to the official liquidator to satisfy the claims of creditors and in addition applicant has deposited amount of Rs. 22 crores with official liquidator as per directions of Court. It is contended that the properties of B.K. Paper Mills is having value more than claims of creditors and the same is on record before the official liquidator. It is submitted that criminal application No. 293 of 2000 has been disposed off but the property disposed off but the property has continued to be in possession of Court Receiver.

3. I have perused the report submitted by the Court Receiver dated 6th May, 2011, wherein it is stated that pursuant to the order dated 25th October, 2001, passed by this Court, the Court Receiver has been appointed as receiver to take steps necessary and in the light of various orders passed by Court in place of Court Commissioner and pursuant to order dated 20th February, 2002 and order dated 28th February, 2002, the Court Receiver has taken possession of both properties. It is further stated that as per the Court's order dated 8th November, 2006, the application was dismissed for want of prosecution, however, order of discharge of the Court Receiver was not passed. In the aforesaid circumstances, the Court Receiver be discharged without passing accounts and

applicant may be directed to pay cost charges, expenses of the office of the Court Receiver. It is also stated that if the Court Receiver is discharged, it may be directed as to whom Court Receiver should hand over the possession of premises at Andheri and Tarapur. This Court had by order dated 19th April, 2012 had observed that various properties under the control of Court Receiver till further orders. If a party is interested in getting the properties out of the hands of the Court Receiver, such a party is free to make an application by making out the case. It will have decided on merits.

4. In view of the said order, the applicants have preferred these applications for discharge of Court Receiver and handing over possession of the property to the applicant. It is pertinent to note that Criminal Application No. 293 of 2000 has been disposed off. The Court Receiver has prayed for discharged. Considering the aforesaid circumstances, I pass the following order.

ORDER

- i. Court Receiver in respect to M/s Tarapur Paper Crafts Pvt. Ltd., situated at E-32/2, MIDC, Tarapur, Boisar, District Thane and (2) office premises of M/s S.K. Packaging, 658/659, Adarsh Nagar,

New Link Road, Oshiwara Junction, Andheri (West), Mumbai 400 058 is discharged;

ii. Properties viz. M/s Tarapur Paper Crafts Pvt. Ltd., situated at E-32/2, MIDC, Tarapur, Boisar, District Thane and (2) office premises of M/s S.K. Packaging, 658/659, Adarsh Nagar, New Link Road, Oshiwara Junction, Andheri (West), Mumbai 400 058 are directed to be handed over to the applicant without passing accounts subject to verification that the properties are not attached or required in any other proceedings;

iii. Applicant directed to pay cost charges and expenses of the Court Receiver to the office of Court Receiver within four weeks from the receipt of this order.

iv. Criminal Application No. 111 of 2019 and Criminal Application No. 1046 of 2018 stand disposed off.

(PRAKASH D. NAIK, J.)