

Sharayu Khot.

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

CHAMBER SUMMONS NO. 628 OF 2018

IN

SUIT NO. 1084 OF 1984

Mohammed Hassan Hajati **...Applicant**

Mrs. Hajiah Nusrat Khanom Payaandeh **...Plaintiffs**
& Ors.

Versus

Mohammed Hassan Hajati & Ors. **...Defendants**

Mr. Mayur Agarwal, i/by Zaidy & Co., for the Applicant.

Mr. Saeed Akhtar, for the Plaintiffs.

Ms. Kavita Ambekar, Ist Asst. Court Receiver present.

CORAM : R.I. CHAGLA J.

DATE : 19 June 2019

ORDER :

1. Heard the learned Counsel for the Applicant. By this Application, the Applicant is seeking a declaration that the distribution of the amounts which was lying to the credit of the

above suit account in the custody of the Court Receiver is illegal, improper and not binding upon the Applicant/Defendant and bringing back certain amounts and directing the Plaintiffs No. 2, 3 and 4 to pay the Applicant certain sums towards his share from the amount which was lying in the credit of the suit and paid over to these Plaintiffs. The Applicant has claimed these sums in the statement at Exh.A to the Chamber Summons.

2. The learned Counsel for the Applicant states that the security deposit had been deposited by the Applicant with the Court Receiver as agent of the Court Receiver and that this amount should be returned to the Applicant with interest accrued thereon. Further, certain sums with regard to royalty and interest for delayed payment have been claimed. It is to be noted that by order dated 15th February 1999, the learned Single Judge of this Court had directed the Court Receiver to finalise the payments to be made to the Income Tax Authorities and the Chartered Accountants and thereafter, to distribute the balance, if any, between the Plaintiffs and the Defendants in the

ratio of 65:35. Thereafter, the Advocates for the Plaintiffs and Defendant (Defendant No. 1 being the Applicant) have given their consent to the statement prepared by the Court Receiver by stating that all figures, amounts, etc. mentioned therein in the statement is correct.

3. Thereafter, the Court Receiver sought appropriate directions of this Court for distribution of the amounts as taken. In the directions sought it was mentioned that the statement of the Court Receiver of distribution of sums lying to the credit of the Suit in the ratio of 65:35 as per order dated 15th February 1999 had been accepted upon parties taking inspection of the statement of account and had given their consent in writing. This Application was sought by the Court Receiver on 8th December 2015. It is to be noted that the Applicant had raised a belated objection after the Application was made by the Court Receiver to this Court that certain amounts by way of security deposit are due exclusively to the Applicant.

4. The amounts were disbursed by the Court Receiver to the parties on 19th March 2016 as per the directions of this Court. The Chamber Summons was belatedly filed on 7th December 2016 i.e. over nine months after the amounts have been distributed by the Court Receiver.

5. Thereafter, it is mentioned in the Court Receiver's Report dated 11th October 2018 that the amounts have been distributed in the ratio of 65:35 as directed by the learned Judge of this Court in the said order dated 15th February 2019.

6. Having considered the Court Receiver's Report dated 11th October 2018 and the Application by way of the Chamber Summons, in my view it is not open for the Applicant to claim that amounts are payable to the Applicant from the sum distributed by the Court Receiver in the ratio of 65:35 pursuant to the order of this Court dated 15th February 1999. In view thereof, the Chamber Summons is dismissed with no order as to costs.

[R.I. CHAGLA J.]