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

**CHAMBER SUMMONS NO.797 OF 2018
IN
SUIT NO.845 OF 1976**

Aishabi Fakirmohammed ... Applicant.

V/s.

Khatijabai sd/o Mohd. Janmohammed
and 20 ors and Usman Gani Qureshi
and 5

... Defendants

Mr. J. G. Gawade, for the applicant

Mr. N.A. Bandodkar, 2nd Assistant for Court Receiver present

CORAM : N. J. JAMADAR, J.

DATE : 9th December, 2019.

PC. :

1] Heard the learned counsel for the plaintiff.

2] The Chamber Summons has been taken out by the legal representatives of defendant No.4, Salmabai Fakir Mohmed, in Suit No.845 of 1976, which came to be disposed of in terms of the minutes of the order dated 20th January, 1997. Clause No.7(a)(i) of the consent minutes of the order reads as under :-

“7(a)(i) The plaintiff and defendants 2, 3 and 4 as heirs of the deceased Fakir Mohamed and his widow the deceased Mariambai and also defendant Nos. 5 to 11, as heirs of Rabiabi shall be

collectively entitled to 50% share, the plaintiff and defendant 2, 3 & 4 each having an equal one-fourth share in 67/72 share out of the said 50% share and the defendant Nos. 5 to 11 as the heirs of deceased Rabiabi collectively having 5/72 share out of the said 50% share therein. The parties hereto confirm that the said Rabiabi had inherited 5/72 share out of the share of the deceased Fakir Mohamed Jan Mohamed in the said Dharavi property”.

3] The Court Receiver has filed report dated 7th December, 2019. In paragraph Nos. 5 and 6 of the report as regards the property situated at Dharavi, the Court Receiver has made the following averments:-

“5. By an order dated 27th April, 2007 passed by this Hon’ble Court on Notice of Motion No.819 of 2007, taken out by Defendant No.4 and also by Consent Decree dated 20th January, 19976, the sale of immovable properties viz Dharavi property has been confirmed on “as is where is basis” in favour of M/s Vijay Deep Hotel Private Ltd. Hereto annexed and marked as Exhibit “C” is copy of Court’s order dated 27th April, 2007.

6. Hon’ble Court (Coram: R.D. Dhanuka, J.) vide order dated 20th March, 2014, in Court Receiver’s Report No.32 of 2014, directed the Court Receiver, high Court, Bombay to execute the sale certificate in respect of the suit property in favour of M/s Vijaydeep Hotels Pvt. Ltd. But till date sale certificate is; not issued as adjudication of stamp is pending before Collector. Hereto annexed and marked as Exhibit “D” is copy of Court’s order dated 20th March, 2014.

4] In the aforesaid view of the matter, it would be in the fitness of things, to allow the legal representatives of the defendant No.4, to whom share has been allotted in terms of the Minutes of the Order extracted above to appear before the Court Receiver, who is entrusted with the execution of the order. Hence, the following order.

Order

I] The Chamber Summons stands allowed to the extent that the applicant shall be entitled to appear before the Court Receiver for the purpose of the execution of the order passed by this Court on 20th January, 1997 and 27.4.2007.

II] The Chamber Summons stands disposed of.

5] Suit be listed on 13.01.2020.

[N. J. JAMADAR, J.]