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

COURT RECEIVER'S REPORT NO.285 OF 2018
IN
SUIT NO.3165 OF 2010

WITH
COURT RECEIVER'S REPORT NO.305 OF 2018
IN
SUIT NO.3165 OF 2010

Ms.Indira Rajguru	...Plaintiff
V/s.	
Balkrishna K. Rajguru & Ors.	...Defendants

Ms.Manisha Virkhare with Ms.Archana Karmokar and Ms.Shraddha Ambre I/b Divya Shah Associates for the Plaintiff.

Mr.Jayesh R.Vyas with Mr.Kinjal Upadhyay and Mr.Paras S. Gosar for the Defendant Nos.3 and 4.

Mr.D.R. Shetty, Court Receiver present.

CORAM : R.D. DHANUKA, J.
DATE : 17TH JANUARY, 2019.

P.C. :-

1. Learned counsel appearing for the plaintiff, defendant nos.3 and 4 and the learned Court Receiver invited my attention to paragraph 6 of the order dated 28th September, 2018 passed by Shri Justice G.S. Patel and the quotations obtained by the learned Court Receiver from the three contractors including the Rainbow Enterprises.

2. It is submitted by the parties as well as the learned Court Receiver that since this Court in the said paragraph had made it clear to consider recommending the work be done by the same agency which has been working on the repairs and renovations of the Beach Kings building, the parties have no objection if the same contractor is continued for carrying out the repair works in respect of the flat by Rainbow Enterprises. It is further submitted by the learned counsel for the parties that the quotation given by Rainbow Enterprises is in respect of various works which would not be required in the flat. It is submitted that this Court by the said order dated 28th September, 2018 had called upon the Architect for handling waterproofing and interior renovation work to initially inspect and survey the flat to assess and estimate the bare minimum work required to put the flat into a habitable condition. Learned counsel for the plaintiff states that only three items out of the quotation issued to Rainbow Enterprises may be directed to be carried out which are as under :

- 1) Breaking of ceiling and Internal Plastering ;
- 2) Fixing new Aluminum sliding window (Hall, Bedroom No.1 & 2nd Bathroom), and
- 3) Painting.

3. It is submitted that the plaintiff has no objection if Rainbow Enterprises is also directed to carry out anti-termite treatment in the

flat. Leaned counsel for the defendant nos.3 and 4 does not have any objection if the works described in the aforesaid items are carried out by the said contractor – Rainbow Enterprises. The statement made by the learned counsel are accepted.

4. The learned Court Receiver is therefore, directed to inform the Rainbow Enterprises to carry out the aforesaid work. A perusal of the quotation issued by Rainbow Enterprises indicates that it has given a separate break up of all these items excluding anti-termite treat. Rainbow Enterprises may charge separately for providing anti-termite treatment in the said flat and shall convey the charges in respect of such treatment within one week from the date of communication of this order. The said contractor should be informed about the quotation of another contractors which is in the sum of Rs.20,000/- for the same work for its knowledge and record. It is made clear that the expenses incurred on carrying out aforesaid work shall be paid from the suit account which according to the learned Court Receiver is Rs.28,63,575=83 ps. on the date of filing of this report.

5. It is made clear that if the said Rainbow Enterprises opines that any additional work may be required to make the said flat habitable, as contemplated in paragraph 6 of the order dated 28th September, 2018, the said contractor – Rainbow Enterprises shall

bring the same to the notice of the learned Court Receiver along with a quotation in respect of such additional work, if any. If the learned Court Receiver receives any such opinion along with quotation from the said contractor, a fresh report shall be submitted for directions of this Court.

6. At this stage, learned counsel appearing for the defendant nos.3 and 4 invited my attention to the second last sentence of the undertaking dated 10th January, 2019 filed by the plaintiff before the learned Court Receiver stating that the plaintiff undertakes on completion of the major repair work of the said flat, to hand over the keys of the flat to the learned Court Receiver. He submits that the plaintiff is not in possession of the suit flat but the learned Court Receiver is in possession of the said flat. This statement of the learned counsel for the defendant nos.3 and 4 is not disputed by the learned counsel for the plaintiff.

7. A perusal of the order passed by the Division Bench of this court on 19th January, 2012 in Appeal (Lodging) No.13 of 2012 clearly indicates that by the said order, the Division Bench of this Court had appointed the learned Court Receiver of flat no.402 with a direction to take peaceful possession of the flat and take steps to appoint an Agent and to put him in possession of the flat on suitable terms and conditions including royalty and security. It is thus clear that the flat in

question is in possession of the learned Court Receiver and not the plaintiff.

8. A perusal of the order dated 28th September, 2018 and more particularly paragraph 6 thereof indicates that the learned Court Receiver is directed to appoint an Architect and to get the flat repaired. The learned Court Receiver is directed to hand over the keys of the flat in question to the contractor – Rainbow Enterprises directly with a direction to safe guard the property during the course of carrying out work and not to hand over the keys either to the plaintiff or to the defendants. The keys shall be retained by the said contractor and shall be handed over to the learned Court Receiver after the work awarded to it is completed.

9. The costs of these two reports quantified at Rs.3,000/- each be appropriated from the suit account by the office of the Court Receiver.

10. The Court Receiver's Report Nos.285 of 2018 and 305 of 2018 are disposed of in aforesaid terms.

11. All the parties as well as Rainbow Enterprises to act on the authenticated copy of this order.

(R.D. DHANUKA, J.)