

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
COURT RECEIVER'S REPORT NO. 136 OF 2021
WITH
COURT RECEIVER'S REPORT NO. 37 OF 2021
IN
NOTICE OF MOTION NO. 2177 OF 2019
IN
SUIT NO. 1183 OF 2019**

M/s.Asra Constructions ... Plaintiff

vs.

Kalyan Kutir Co-operative ... Defendants
Housing Society & Ors.

Mr. Hamed Kadiani a/w. Ms. Sheetal Raghani i/b. M/s J. Law Associates
for the Plaintiff.

Mr. Thomas James i/b. Auris Legal for Defendant no.1.

Mr. P. K. Nardele, OSD, Court Receiver.

CORAM : A. K. MENON, J.

DATED : 10th FEBRUARY, 2021

P.C. :

1. In these reports the Court Receiver seeks directions as to steps to be taken to take possession of Flat no 3,Ground Floor, Kalyan Kutir CHS Ltd. Kurla (West) from defendant no.3 till 31st January, 2021. By virtue of the order passed in suo Moto Writ Petition Urgent No. 2 of 2020 forcible dispossession was not resorted to.

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2. On 16th December, 2020 this Court directed the Court Receiver to take symbolic possession and affix the board of the Receiver in the outer door of the premises. The Receiver was directed not to take forcible possession.

3. According to the Receiver on 21st December, 2020 the representative of the Receiver visited the flat. One Abbas Habib Merchant claiming to be son of defendant no. 3 obstructed the Receiver's representative claiming that an Appeal had been filed in this Court and that the Receiver could not take possession. A little while later one Hussain Habib Merchant also claiming to be son of defendant no. 3 informed the Receiver's representative Mr. Manoj S. Patil that he intends to file an FIR and caused him to visit the Kurla Police station where the Officer- In-charge upon ascertaining the facts provided police assistance to the Receiver representative upto the railway station. In effect the Receiver's representative was obstructed from carrying out the order of this Court and reason seems to be that the appeal seems to be pending against appointment of order of Court Receiver. That Appeal I am informed was filed on 18th March, 2020 and was not moved during the lock down.

4. On behalf of the plaintiff it is submitted that the defendant no. 3 was served with caveat and to the best information of the plaintiff the

appeal was not moved. Today it is pointed out by the Receiver that the Advocate who filed the appeal has informed Receiver that he no longer represents defendant no.3 and that the report need not be served upon him. As on date there does not appear to be any Advocate representing defendant no.3. Defendant no.3 has been apparently notified of the hearing of this report. Today none appears on call. Accordingly, I pass the following order :

- (i) Plaintiffs are at liberty to apply for further reliefs in terms of steps to be taken by the Receiver after due notice to defendant no.3.
- (ii) Plaintiffs shall serve notice informing defendant no.3. of the fact that they will be applying for seeking forcible possession of the premises.
- (iii) In the circumstances both reports are disposed.
- (iv) Costs of the Receiver allowed.

(A. K. MENON, J.)