

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

**COURT RECEIVERS REPORT NO. 427 OF 2021
IN
SUIT (L) NO. 15227 OF 2021**

Teena Hoshang Jilla alias
Teena Mohammed Roshan ... Plaintiff

Versus

Jayshree Shah ... Defendant

Mr. Pralay J. Thorat a/w Ms. Aditi Naikare for the Plaintiff.
Mr. N.P. Wagle for the Defendant.
Ms. Rekha Rane, IInd Assistant to Court Receiver, present.

CORAM : R.I. CHAGLA, J.

DATED : 10th DECEMBER, 2021.

ORDER :

1 Heard learned Counsel for the parties. The Court Receiver's Report No.427 of 2021 is placed before this Court. By an order dated 17.11.2021 this Court had noted that the Defendant has failed to accept the agency and/or enter into agency agreement and that one last chance is given to the Defendant to appear in the proceeding on the next date and in the event the Defendant fails to appear, the right of agency will stand forfeited.

2 Today, the learned Counsel appearing for the Defendant has made an appearance.

3 The Court Receiver present in Court has taken this Court through the valuation report dated 28.09.2021 of the valuer Mr. Sanjay Kevale appointed by the Court receiver. The valuer has arrived at royalty per month at Rs.32,890/-. He has arrived at value of suit property at Rs.59,80,000/-. The Defendant has failed to enter into the agency agreement and he is given last chance to enter into agency agreement at royalty of Rs.32,890/- per month by 17.12.2021.

4 The learned Counsel appearing for the Defendant has raised a preliminary issue on pecuniary jurisdiction and has relied on the valuation report where the valuer has valued the suit property at Rs.59,80,000/-. He has submitted that since the value of the suit property is less than the Rs.1 crore, the City Civil Court will have jurisdiction. This has been countered to by the learned Counsel appearing for the Plaintiff who states that the Plaintiff has in the plaint valued the suit flat at over Rs.1 crore and that is according to the Plaintiff's valuation. Leaving this contention open, the following order is passed in the Court Receiver's report:-

i) I am satisfied that the delay has been explained in the report which is on account of the Defendant's non-co-operation in executing the agency and seeking extension of time for that purpose on the ground that the Defendant is not well. Delay is accordingly condoned.

ii) The Court Receiver shall entered into agency agreement with the Defendant on or before 17.12.2021. It is made clear that in the event the Defendant fails to execute the agency agreement on or before 17.12.2021, the Defendant's rights of agency shall be forfeited. The Court Receiver will then take possession of the subject premises. The agency agreement which was to be executed by 30.09.2021 by order dated 14.09.2021, is extended till 17.12.2021 on which date the agency agreement shall be executed.

iii) The royalty for Room No.13, 1st Floor, Sonawala Building, Marwadi Chawl, Tardeo, Mumbai-400 007 is fixed as per the valuers report dated 28.09.2021 at Rs.32,890/- per month.

iv) Cost of this Application amounting to Rs.5,000/- is awarded and shall be charged from the account lying in the suit account with the Court Receiver.

v) Court Receiver's report is accordingly disposed of.

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signed by
WAISHALI
SUSHIL
WAGHMARE
Date:
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(R.I. CHAGLA, J.)