

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

**COURT RECEIVER'S REPORT NO.61 OF 2022
IN
SUIT NO.147 OF 2017**

Lourdes Veronica Baptista

...Applicant

V/S

M/s. Crescent Builders & Developers & Ors.

...Defendants

None for Plaintiff.

Mr. Adhik Kadam i/by K. P. Tiwari & Co. for Defendant Nos.3, 4 and 5.

Mr. Vivek Sharma i/by Solomon & Co. for Defendant No.8.

Ms. Yamuna M. Parekha for Defendant No.10.

Mr. S. Shamim i/by S. Shamim & Co. for Defendant Nos.11 to 12.

Ms. R. V. Rane, 2nd Assistant to the Court Receiver.

CORAM : R. I. CHAGLA, J.

DATED : 13th JUNE, 2022.

P.C.

1. The Court Receiver's Report No.61 of 2022, has been filed on 24th February 2022. The Court Receiver was appointed by order dated 30th October 2018 in respect of Flat Nos.301, 302, 602 and 603, which were vacant and the Court Receiver was to give the flats on leave and licence basis to the persons, who are interested to use and occupy the said flats on leave and licence basis. For that purpose the Court Receiver held meeting on 19th January 2019,

wherein it is noted that in the order dated 30th October 2018, there was no specific direction to take physical possession of the aforementioned flats, but as the Court Receiver was to give the flats on leave and licence basis, therefore, physical possession is required to be taken by the Court Receiver. The Applicant/Plaintiff requested the Court Receiver to fix appointment to take possession of the aforementioned flats from Defendant No.1.

2. The Court Receiver has thereafter taken steps for taking physical possession of the aforementioned flats and for which the date was fixed by letter dated 25th January 2019. The representative of the Court Receiver has accordingly taken physical possession of Flat Nos.301, 302 and 602 on 31st January 2019 and obtained undertaking from Defendant Nos.3 to 5 for safeguard in the same. The representative of the Court Receiver has not taken physical possession of Flat No.601, because there was an inadvertent error in the order dated 30th October 2018, wherein instead of Flat No.603, Flat No.601 has been mentioned. This has been corrected by subsequent order dated 22nd February 2019. Thereafter, the representative of the Court Receiver has taken physical possession of Flat No.603 on 12th March, 2019 and obtained undertaking of

safeguarding the said Flat from Defendant Nos.2 to 5. Thereafter, meetings were held by the Court Receiver and it was noted that the parties were not giving co-operation as to finalising leave and licence agreement and/or appointment of valuer of the aforementioned flats. Defendant Nos.3 to 5 are not in a position to bear charges for obtaining report of valuer and the public notice for giving the aforementioned flats on leave and licence basis. The Applicant/Plaintiff is also not willing to bear any charges.

3. It is noted that the Court Receiver had allowed inspection of the suit flats, but there has been no steps taken thereafter due to the non-cooperation of the Applicant/Plaintiff and Defendant Nos.3 to 5. Accordingly, the aforementioned flats have not been given on leave and licence basis.

4. Considering that the parties are not co-operating with the Court Receiver for giving the aforementioned flats on leave and licence basis and they are not in a position to bear the cost of valuation and/or the cost of public notice inviting bids for the aforementioned flats, it would be appropriate that the Court Receiver is discharged in the said proceedings. Hence, the following Order:-

- (i). The Court Receiver appointed by this Court on 30th October 2018, for the sole purpose of giving Flats No.301, 302, 602 and 603 on leave and licence basis is discharged without drawing up of accounts and upon payment of cost and charges to be borne by the Applicant/Plaintiff from the suit account.
- (ii). The Court Receiver shall handover physical possession of the aforementioned Flats to Defendant Nos.3 to 5 within a period of two weeks from today.
- (iii). The cost of the report fixed at Rs.5,000/- shall be paid from the suit account.
- (iv). The Court Receiver's Report is disposed of in the above terms.
- (v). Upon the handing over of the physical possession of the aforementioned flats by the Court Receiver to Defendant Nos.3 to 5, Defendant Nos.3 to 5 shall not in any manner deal with the aforementioned flats till further orders.

(R. I. CHAGLA, J.)