

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
TESTAMENTARY AND INTESTATE JURISDICTION**

**COURT RECEIVER'S REPORT NO.193 OF 2022
WITH
INTERIM APPLICATION (L) NO.8712 OF 2022
IN
TESTAMENTARY SUIT NO.26 OF 2019**

Mr. Raintaine Gonsalves
V/S

...Petitioner

Mrs. Sharon Cedric Pereira (nee Fernandes) ...Defendant/Caveator

Mr. Ravi Gadagkar i/by Mr. Royston Pereira for the Petitioner.

Mr. Cedric Pereira CA of Defendant/Caveator.

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

CORAM : R. I. CHAGLA, J.

DATED : 25th JULY, 2022.

P.C.

1. Heard learned counsel for the parties.
2. The Court Receiver's Report has been placed for directions as the Court Receiver has not been able to receive any bids/offers in respect of the suit flat. Accordingly, the Court Receiver has sought directions as steps to be taken in respect of the sale of the suit flat.

3. This Court had placed the matter today for considering the offer made by Mrs. Rosenda Pareira - elder daughter of the deceased, sister of the Defendant (Original Caveator) who had offered to purchase the suit flat on 29th January 2021 as has been recorded in email addressed to the Defendant (Original Caveator) at a price of Rs.1.60 Crores. The offer was made in the Court Receiver's meeting held on 29th January 2021. Accordingly, this Court had directed Mrs. Rosenda Pareira as well as the Defendant (Caveator) to remain present in Court today.

4. Mrs. Rosenda Pareira, who is present in the Court has been asked as to whether she is in a position to increase the offer, considering that the valuation which was undertaken in 2019 had valued the suit flat at a higher value than the offer made by her. The said Mrs. Rosenda Pareira was offering, willing to only increase the offer by another Rs.5,00,000/- and not more.

5. The Constituted Attorney of the Defendant (Caveator) states that he is in a position to get higher offers and has requested this Court to once again invite public offers for the suit flat through the Court Receiver.

6. Having perused the Court Receiver's Report, it does appear from the Valuation Report that the suit flat which is situated at Flat No.402, Foreshore Co-operative Housing Society Ltd., 4th Floor, A Wing, Juhu Tara Road, Near Hotel Sea Princess, Juhu, Mumbai - 400 049 is valued at Rs.2.15 Crores which is much higher than that offered by Mrs. Rosenda Pareira. However, considering the fact that it was by virtue of the consent order passed by this Court on 25th July 2019 that the Court Receiver was directed to measure the suit flat and for which the keys of the suit flat was to be deposited with the Court Receiver of this Court as well as the valuer to be appointed and Valuation Report to be submitted. Almost three years have expired after the said consent order was passed. As and by way of last opportunity and only with an attempt to get a higher price for the suit flat, public notice of Court sale of the suit flat is again required to be given. However, this shall be only subject to the costs and charges being borne by the Defendant (Caveator) for the Court auction of the suit flat. Hence, the following directions are issued.

- (i). The Court Receiver is directed to issue public notice in two newspapers i.e. The Times of India (English) and

Maharashtra Times (Marathi) on 17th August 2022.

- (ii). The inspection of the suit flat shall be offered to the interested bidders on 29th August 2022 and on 30th August 2022 between 11.00 a.m. and 4.00 p.m.
- (iii). The bids/offers shall reach the office of the Court Receiver in sealed envelope by 5th September 2022. The EMD is fixed at Rs.5,00,000/- by way of demand draft in the name of Court Receiver, High Court, Bombay which shall also be deposited with the Court Receiver on 5th September 2022.
- (iv). The Court Receiver is directed to place Report before this Court on 12th September 2022, mentioning whether bids are received and if so placing the bids for consideration of this Court.
- (v). The Court Receiver shall give notice to the bidders to remain present in Court on 12th September 2022 at 2.30 p.m.
- (vi). It is made clear that the cost and charges of the Court Receiver for implementing the above directions shall

be borne by the Defendant (Caveator).

- (vii). It is further made clear that in the event there are no bids received pursuant to the public notice issued by the Court Receiver, the offer currently made by Mrs. Rosenda Pareira and in the event Defendant (Caveator) has offers for the suit flat, these offers shall be considered by this Court on 12th September 2022.
- (viii). The Court Receiver's Report No.193 of 2022 is disposed of accordingly.
- (ix). The cost of the Court Receiver shall be fixed at Rs.5,000/- and shall be borne by the Plaintiff by depositing the same in the office of the Court Receiver.
- (x). On the next date, both Mrs. Rosenda Pareira and Defendant/Caveator shall remain present in the Court.
- (xi). Place the matter on 12th September 2022.

(R. I. CHAGLA, J.)