

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

FIRST APPEAL NO.2238 OF 2011

Hemant Chikhal
(since deceased through his Lrs)
Rajani Hemant Chikhal & Anr.

...Appellants

Versus

Randhir Chikhal & Ors.

...Respondents

WITH
INTERIM APPLICATION NO.4228 OF 2019
IN
FIRST APPEAL NO.2238 OF 2011

Randhir Chikhal

IN THE MATTER OF

Hemant Chikhal

...Applicant

Versus

Randhir Chikhal & Ors.

...Respondents

Mr. Drupad Patil, *for the Appellants.*
Ms. Hetal Patel, *for Respondent No.1.*
Mr. Rekha Rane, II Assistant to Court Receiver.

CORAM: RAJESH S. PATIL, J
VACATION COURT
DATED : 12th May, 2023

PC:-

1. Mentioned. Not on board.

2. Taken on board.
3. The Court Receiver, High Court, Bombay has mentioned this matter and points out to this Court, the order dated 5th January, 2023 passed in Appeal From Order No.10 of 2023 by this Court (Coarm: G. S. Kulkarni, J.). The said order states that the Court Receiver, High Court Bombay can not be appointed as a Receiver in Suits filed in the City Civil Court, Bombay. It further states that in all the pending matters, the Court Receiver, High Court Bombay, if appointed by order of the City Civil Court, in these matters the Court Receiver, High Court, Bombay, will take discharge in all such matters.
4. The relevant paragraphs 8, 9 and 10 of the said order dated 5th January, 2023 reproduced herein below:

“...8. It is thus well settled that the City Civil Court, Bombay, wolud not have jurisdiction to appoint Court Receiver, High Court, Bombay as a Receiver. Hence, the Court Receiver as appointed by the City Civil Court, Bombay would be required to be discharged by the City Civil Court and a fresh Court Receiver would be required to be appointed.

9. To enable the learned Judge, City Civil Court, Bombay,

to do so, the parties are directed to appear before the City Civil Court, Bombay, as directed above, so that appropriate orders can be passed to discharge the Court Receiver, High Court, Bombay, who was required to take steps as per the orders dated 22 August 2012 passed by the City Civil Court, Bombay on Notice of Motion No.2351 of 2011.

10. The Court Receiver, High Court, Bombay, shall hand over all the records and the documents to the Receiver who shall now be appointed by the City Civil Court, Bombay, who would be now required to continue to discharge the duties of the Court Receiver, as per the orders passed by the City Civil Court, Bombay.”

5. In the present matter, the parties had moved before this Court on 9th May, 2023 for filing consent terms. Since, the parties were present in the Court with their respective Advocates and the Advocate identified the parties and their signatures, the consent terms signed by all the parties were taken on record and the First Appeal was disposed of. Nobody, was present on behalf of Court Receiver, High Court, Bombay.

6. While the consent terms was taken on record and the matter was disposed of on 9th May, 2023, none of the parties pointed out to this Court that in the same proceedings on 29th April, 2023 a

meeting/hearing was held in the office of II Assistant of Court Receiver, High Court Bombay. In the said hearing learned Advocate for original Plaintiff was present. So also Defendant No.4 was present in the said meeting/hearing.

7. In view of the order dated 5th January, 2023 passed in Appeal From Order No.10 of 2023. The Court Receiver, High Court Bombay shall hand over all the records and proceedings to the Receiver, who shall now be appointed by the City Civil Court, Bombay and who would be required to continue to discharge his duty of the Receiver as per the order passed by the City Civil Court, Bombay.

8. In view of this situation, parties should not act upon the consent terms which are filed in this Court on 9th May, 2023. The matter to come up before the regular Court on **26th June. 2023.**

(RAJESH S. PATIL,J.)