

K.S. Jadhav

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

COURT RECEIVER'S REPORT NO.131 OF 2021

IN

SUIT NO.142 OF 2022

Digho Co-operative Housing Society Ltd. ...Applicant/Plaintiff

Versus

**Hussain Shah alias 'Bhai' & Ors., ...Respondents/
Defendants**

Mr. Digaj Mishra a/w Mr. Nishit Dhruva a/w Mr. Prakash Shinde a/w
Ms. Niyati Merchant a/w Mr. Yash Dhruva a/w Mr. Harsh Sheth i/b
MDP & Partners, Advocates for Plaintiff.

Mr. Karl Tamboly a/w Kumar Nichani i/b Vasim Siddhiqui, Advocate
for Defendant No.1.

Ms. K.H. Mhaskar, Advocate for MCGM.

Mrs. Rekha Rane, 2nd Assistant to Court Receiver present.

Mr. Sunil Katare, Jr. Engineer, Building & Factory Department,
H/West Ward present.

Mr. Vijay Dhondiram Takokul, Sr. Inspector/Facilitator, H/West Ward
present.

CORAM : R.I. CHAGLA J.

DATE : 6TH FEBRUARY, 2023.

ORDER :

1. Ms. Mhaskar, the learned Advocate appearing for the MCGM
has tendered Affidavit-in-Reply dated 2nd February, 2023 to the Court
Receiver's Report. Additional Affidavit of the Plaintiff-Society is

tendered by the learned Counsel for the Plaintiff.

2. Ms. Mhaskar states that Mr. Sunil Katare, Jr. Engineer, Building & Factory Department, H/West Ward is present in the Court. In the said Affidavit-in-Reply, it is stated that Registration Certificate obtained in respect of the subject premises under the Maharashtra Shops & Establishments (Regulations of Employment and Conditions of Service) Act, 2017 on 23rd May, 2019 stands cancelled on 5th December, 2019. She has further stated that in compliance with the order dated 23rd January, 2023, the MCGM had scheduled demolition of the suit premises on 3rd February, 2023. Upon visiting the suit premises, the suit premises was found locked and accordingly the proposed demolition of additional construction could not take place.

3. Mr. Tamboli, learned Counsel appearing for the Judgment Debtor states that appropriate steps will be taken with regard to the the notice issued by MCGM for demolition of the suit premises. Ms. Mhaskar states that a speaking order will be passed after considering any response from the Defendant No.1 with regard to the legality of the additional construction in the suit premises.

4. In the Court Receiver's Report No.131 of 2021, it is stated by

Court Receiver that symbolic possession of the suit premises has been taken by affixing notice of possession on both the doors. However, the Respondent No.1 had refused to execute the usual undertaking to safeguard the Suit premises in favour of the Court Receiver on account that few clauses were not agreeable to him. Accordingly, Mr. Tamboly shall instruct his client to execute the usual undertaking to safeguard the Suit premises in favour of the Court Receiver.

5. Mr. Misra, the learned Counsel appearing for the Applicant/Plaintiff has pressed for appointment of the Court Receiver to take physical possession of the suit premises. Mr. Tamboly states that by the ad-interim order dated 9th September, 2020 the Court Receiver was only directed to take symbolic possession. The Interim Application would accordingly require to be heard.

6. The Interim Application (L) No.2926 of 2020 shall be placed on 2nd March, 2023 for hearing.

7. The Court Receiver's Report No.131 of 2021 in compliance of the order dated 9th September, 2020 and 13th September, 2020 is accordingly disposed of.

[R.I. CHAGLA J.]