

VS.

Mr. Rajesh Kachare a/w. Ms. Sonal Dabholkar, i/b. Ameet Palkar for plaintiffs.

Mr. Dilip Rai, i/b. Vasant Dhawan for defendant.

Mr. E. B. Shivakumar, 1st Assistant to Court Receiver.

CORAM : MANISH PITALE, J.
DATE : 25th SEPTEMBER, 2023

P.C. :

Two reports of the Court Receiver bearing Court Receiver's Report No.25 of 2023 and No. 79 of 2023 have come up for consideration before this Court.

2. Vide Court Receiver's Report No.79 of 2023, the Court Receiver is seeking appropriate directions in the backdrop of the dues payable to the society. It is brought to the notice of this Court that till August, 2023, the dues payable to the society in respect of the subject flat are Rs.5,26,533/-. Court Receiver's Report No.25 of 2023 pertains to the aspect of repairs of the subject flat.

3. It is further brought to the notice of this Court that the amount presently available in balance with the Court Receiver is Rs.4,98,221/-,

which is less than the dues claimed by the society upto August, 2023. In this backdrop, appropriate directions are sought in the matter.

4. Learned counsel for the parties have invited attention of this Court to the judgment and order dated 22.02.2018, passed by the learned Single Judge of this Court, as also the order dated 10.12.2018, passed by the Division Bench of this Court in an appeal filed by the original plaintiffs.

5. The learned counsel for the parties submitted that the dues payable to the society can be made good by directing the Court Receiver to pay the same through the balance amount available with the Court Receiver. It was submitted that the shortfall can be made good. The learned counsel for the plaintiffs submits that the defendant ought to pay the balance amount as well as the recurring monthly amount towards maintenance to the society. Learned counsel for the original defendant submits on instructions that the defendant is ready to pay from the estate of the deceased the monthly maintenance amount to the society from September 2023 onwards, but insofar as the shortfall in the amount with the Court Receiver is concerned, the same ought to be shared equally between the plaintiffs and the defendant.

6. This Court has perused the judgment and order of the learned Single Judge of this Court, as well as order passed by the Division Bench of this Court. It would be appropriate to issue necessary directions in the matter, taking into account the fact that some amount ought to remain in the hands of the Court Receiver for incidental expenses. This Court is of the opinion that insofar as the shortfall is concerned, the plaintiffs and defendant ought to share the amount equally. The defendant has already volunteered to

make monthly payments to the society from September 2023 onwards from the estate of the deceased.

7. As noted hereinabove, Court Receiver's Report No.25 of 2023 pertains to the aspect of repairs of the subject flat and therefore, to that extent, the said report may have to be kept pending.

8. Hence, Court Receiver's Report No.79 of 2023 is disposed of in following terms:

- (a) The Court Receiver shall pay an amount of Rs.4,40,000/- from the balance amount lying with it to the society towards part-satisfaction of the total amount of Rs.5,26,533/- due till August 2023. The shortfall of Rs.86,533/- shall be deposited by the plaintiffs and the defendant with the Court Receiver within a period of three weeks from today. It is made clear that the plaintiffs shall deposit half the amount of Rs.86,533/- and remaining half share shall be deposited by the defendant.
- (b) The defendant shall pay the monthly maintenance amount to the society in respect of the subject flat from September 2023 onwards from the estate of the deceased, until further orders.
- (c) Upon making such monthly payment, the defendant shall deposit proof of such payment every month with the Court Receiver.
- (d) The cost of the Court Receiver's Report No.79 of 2023, as per direction (b) sought by the Court Receiver, shall be borne half and half by the plaintiffs and the defendant.

(MANISH PITALE, J.)

Priya Kambl