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IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

**COURT RECEIVER'S REPORT NO. 8 OF 2018
IN
SUIT NO.1044 OF 2007**

WITH

COURT RECEIVER'S REPORT NO.241 OF 2022

IN

SUIT NO.1044 of 2007

WITH

INTERIM APPLICATION(L)NO.24857 OF 2022

IN

SUIT NO.1044 OF 2007

Munna R. Puthalappa	..Plaintiff/Applicant
Vs.	
Ramesh H. Mehta & Anr	..Defendants

Mr.Vipul Shah, *Advocates for the Plaintiff and for the Applicant in I.A. Lodg No.24857/2022.*

Mr.Amit Tungare a/w Vineet Jain, *Advocates for Defendant Nos.1 and 2.*

Mr. Deval Anja, *Advocate for the Society.*

Mr. Dilip Munna Puthalappa, *Son of the Plaintiff is present.*

CORAM : B. P. COLABAWALLA, J
DATE : MARCH 20, 2023.

P. C.:

COURT RECEIVER'S REPORT NO.8 OF 2018

1. Court Receiver's Report No.8 of 2018 is filed to direct the Plaintiff to deposit a sum of Rs.7,35,000/- towards security deposit, in order to enable the Court Receiver to hand over possession of eight shops and the basement in the building called "*Paras, the Golden Touch Co-operative Housing Society Ltd*", to the Plaintiff as the agent of the Court Receiver. As far as this security deposit is concerned, it is not in dispute that the same has been paid by the Plaintiff, pursuant to which possession of the said eight shops and the basement is handed over to the plaintiff [as the agent of the Court Receiver].

2. The other relief sought in this Court Receiver's Report is whether the Court Receiver should pay the society dues from the amount lying in the suit account and what steps the Court Receiver should take in order to pay the maintenance dues of the society till date

[in respect of Flat Nos.203 & 204 as well as the eight shops and the basement].

3. As far as the dues of the society are concerned, they relate to two residential flats [Flat Nos.203 & 204] as well as eight shops and the basement. For the society maintenance charges for Flat Nos.203 and 204 [for the amount of Rs.8,21,579/- as on February, 2023], the learned counsel appearing on behalf of the Defendants has stated that this amount shall be paid directly to the society within a period of four weeks from today. The said statement is accepted as an undertaking given to the Court. As far as the balance amount of the society's dues are concerned [in relation to the eight shops and the basement, in occupation of the Plaintiff as the agent of the Court Receiver], the society shall submit their bills to the Court Receiver, who shall then verify them, and if found in order, thereafter, make payment from the suit account. If there is any dispute on the amount payable, the Receiver as well as the society are at liberty to approach this Court.

4. Court Receiver's Report No. 8 of 2018 is disposed of in the aforesaid terms. The costs of the Court Receiver's Report of Rs.5,000/- shall be appropriated from the funds available in the suit account.

COURT RECEIVER'S REPORT NO.241 OF 2022

5. Court Receiver's Report No. 241 of 2022 is filed seeking the following reliefs:-

- "a) The Plaintiff being the Agent of the Court Receiver, be directed to deposit arrears of monthly royalty of Rs.2,45,000/- per month from 03rd May 2018 to July, 2022 aggregating to Rs.1,24,95,000/- in the Office of Court Receiver, High Court, Bombay within stipulated period,
- b) The Bombay Municipal Corporation and Reliance Infrastructure may be directed to provide water connection and electricity connection to the suit shops
- c) What steps Court Receiver should take in respect of flat Nos. 203 and 204 which are in possession of the defendant as a symbolic possession are with the third party,
- d) The Court Receiver, High Court, Bombay may be discharged without passing of account due to non-co-operation of plaintiff,
- e) If the prayer (d) is in affirmative necessary direction may be passed as to whom the balance amount lying in the suit account be paid.
- f) Cost of this report be fixed and may be awarded at Rs. 5,000/- and same may be permitted to be appropriated from the funds available with the Court Receiver from the suit account."

6. As far as prayer clause (a) is concerned, the Receiver has informed the Court that till March 2023, the Plaintiff is in arrears of payment of royalty to the tune of Rs.1,59,00,500/-. In answer to this, the learned counsel appearing on behalf of the Plaintiff, submitted that the Plaintiff would clear these arrears in installments. When asked what the installments would be, he submitted that apart from the royalty of Rs. 2,45,000/- per month, he would clear the arrears by paying Rs.2,00,000/- a month. He, however, submitted that this offer is made subject to electricity being supplied and water connection being restored to the eight shops which are in occupation of the Plaintiff as the agent of the Court Receiver.

7. I am afraid this offer is stated only to be rejected. Firstly, no such conditional offer [regarding the electricity and water connection] can be accepted because when these shops were taken by the Plaintiff as the agent of the Court Receiver, there was admittedly no electricity or water connection. This being the case, there is no question of putting any such condition/stipulation today. Secondly, the Plaintiff seeks to clear the arrears of Rs. 1,59,00,500/- by making payment of Rs.2,00,000/- per month [in addition to the payment of Rs.2,45,000/- per month as royalty, going forward]. This means that the Plaintiff will take 80 months [6 years and 8 months] to clear the arrears. This is ludicrous to say the least and is stated only to be

rejected. The Plaintiff is not in a position to pay the royalty, and this is clear from his conduct.

8. In these circumstances, the Plaintiff is directed to handover vacant and peaceful possession of the eight shops and the basement to the Court Receiver on 27th March 2023 at 12:00 pm. In the event, the Plaintiff does not voluntarily hand over possession as directed above, then, in such an event, the Court Receiver shall be entitled to take forcible and physical possession of the said eight shops and the basement from the Plaintiff by breaking open the locks, if necessary, and vacate whoever is found therein. For this purpose, the Senior Police Inspector of the Local Police Station shall give all the necessary assistance (including deputing adequate number of police personnel) to the Court Receiver to ensure compliance of this order, failing which, the said Police Inspector shall be held liable for contempt.

9. At the time when the Receiver takes physical possession, he shall hand over all the Articles in the said shops to the Plaintiff. If for any reason the Plaintiff refuses to take away his articles, then, in that event, the Court Receiver shall take physical possession of the said eight shops and the basement with the Articles lying therein by making an inventory and seek further directions as to what is to be done with

reference to those Articles. If any further directions are required by the Court Receiver in relation to the eight shops and the basement, including giving them on a leave and license basis to any third party, the Court Receiver shall file a separate Report in that regard. These directions take care of prayer clause (a) of the Court Receiver's Report No. 241 of 2022.

10. As far as prayer clause (b) of the Court Receiver's Report No. 241 of 2022 is concerned, I am informed that no notice has been given by the Receiver to the Mumbai Municipal Corporation and/or Reliance Infrastructure for the purposes of water connection and electricity to the said eight shops and the basement. In these circumstances, there is no question of granting prayer clause (b) today. The Court Receiver is at liberty to seek this prayer when he seeks further directions in relation to the said eight shops and the basement.

11. As far as prayer clause (c) of the Court Receiver's Report No. 241 of 2022 is concerned, the learned counsel appearing on behalf of the Defendants has stated that Flat Nos.203 and 204 are in possession of Defendant No.2 which is a company, and the employees of the said company are currently occupying these two premises. He has undertaken to the Court that these employees are not claiming any right and/or interest in these premises and shall vacate Flat Nos.203

and 204 as and when called upon by the Court Receiver. The said undertaking is accepted. In light of this undertaking, no further directions are necessary in terms of prayer clause (c).

12. As far as prayer clauses (d) & (e) of the Court Receiver's Report No. 241 of 2022 are concerned, they seek the discharge of the Court Receiver. Considering the directions given above, there is no question of discharging the Court Receiver at this stage. Hence the said prayers are rejected.

13. As far as prayer clause (f) is concerned, the costs of this Report [of Rs.5,000/-] shall be appropriated from the funds available with the Court Receiver from the suit account.

14. Court Receiver's Report No. 241 of 2022 is disposed of in the aforesaid terms.

INTERIM APPLICATION (L) NO.24857 OF 2022

15. Interim Application (L)No.24857 of 2022 is filed by the Plaintiff inter alia seeking a direction to the concerned authorities for connection of electricity and water to the eight shops of which the Plaintiff was appointed as the agent of the Court Receiver. In light of

the order passed above (in Court Receiver's Report No.241 of 2022), the above Interim Application does not survive and is disposed of as such. No order as to costs.

16. This order will be digitally signed by the Private Secretary/Personal Assistant of this Court. All concerned, including the police authorities, will act on production by fax or email of a digitally signed copy of this order.

[B. P. COLABAWALLA J.]