

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

**COURT RECEIVER'S REPORT NO. 318 OF 2022
IN
SUIT (L) NO. 1242 OF 2018**

Prashama Shukla & Anr. ... Plaintiffs

Versus

Heena Builders and Developers & Ors. ... Defendants

**WITH
INTERIM APPLICATION (L) NO. 37515 OF 2022
IN
COURT RECEIVER'S REPORT NO. 318 OF 2022**

Ms. Sapana Rachure for the Plaintiffs.

Ms. Gauri Mestha i/b LJ Law for Judgment Creditor in S/817/2015.

Mr. K.M. Sanghvi for Kapol Co.Op. Bank in IA/31541/2022.

Ms. Disha Karambar Mulgaonkar a/w Priya Rita i/b Disha Karambar and Associates for India Infoline Finance Limited and Applicant in IAL/26630/2022.

Mr. Shridhar Dhekhale, C.R. present.

CORAM : R.I. CHAGLA, J.

DATED : 2nd JANUARY, 2023.

ORDER :

1 The Court Receiver present states that no offer has been received for the subject flats and shops which were to be sold by way of Court auction as per order dated 31.01.2022.

2 It is stated in the Report that the Court Receiver had been appointed on 11.10.2018 and possession of subject flats and shops were taken on in 2021. Thereafter M/s. Nadkarni & Co. who was appointed as Valuer by the said order dated 31.01.2022 had upon taking inspection of the subject flats and shops submitted valuation report in sealed envelope in the Court Receiver's office on 23.02.2022. The Reserve Price was fixed by order dated 06.04.2022. Subsequently, public notice was issued in 'Free Press Journal' in English and 'Navshakti' in Marathi on 10.05.2022. Though inspection had been taken by the interested persons but no offers were received in respect of subject flats Nos.601/6A and 602/6B.

3 The Registry received two offers for subject Flat No.5, Viral Apartment, Second Floor, A-Wing, and Flat No.101, Nestor Court Co-operative Housing Society Limited. The subject Flat No.5, Viral Apartment has been mortgaged to India Infoline Finance Limited and Flat No.101, Nestor Court Co-operative Housing Society Limited mortgaged to Kapol Co-operative Bank. Thereafter, at the meeting of the Court Receiver held on 18.05.2022 these offers were opened. Thereafter, the original offeror Mr. Kaushal Negandhi had raised the offers in respect of subject Flat No.5 and subject Flat No.101. However, the raised offers were also less than the present market value and value of ready reckoner. The Advocates for the parties unanimously submitted at the meeting that the offers received

are not proper and sufficient to be accepted.

4 The Registry had thereafter received the letter dated 28.06.2022 alongwith annexure from India Infoline Finance Limited stating that an offer was received from Mr. Harish Shetty, who was interested to purchase subject Flat No.5 for an amount of Rs.1,75,00,000/-. No objection was received from the Advocate for the Defendants upon being communicated the said offer by the Registry vide e-mail dated 08.07.2022. However, by order dated 10.10.2022 this Court upon perusing the Valuation Report and in particular valuation in respect of subject Flat No.5 for which offer of Rs.1,75,00,000/- had been received from Mr. Harish Shetty had observed that this offer was much below the value of the subject flat as valued by the appointed valuer M/s. Nadkarni & Co.

5 Thereafter, by order dated 17.10.2022, this Court Receiver's Report was placed before this Court and time had been granted in view of request made by the learned Counsel for the parties for bringing further offers for the subject flats before the next date in order for sale of the subject flats by private treaty. Time was granted till 11.11.2022 and the Court Receiver's Report was to be placed on 14.11.2022 at 2.30 p.m. The permission was granted to the Judgment Debtor to enter the subject flats

in the presence of the Court Receiver for carrying out maintenance including cleaning and keeping the subject flats in proper order.

6 The matter had thereafter been stood over on two dates and has come up today.

7 The learned Counsel appearing for the Plaintiffs has submitted that one more opportunity be given for Court sale of the subject flats through the Court Receiver by issuance of public notice in widely circulated newspapers including 'Times of India' (in English language), 'Maharashtra Times' (in Marathi language) and 'Janmabhumi' (in Gujarati language).

8 There is an opposition from the learned Counsel appearing for India Infoline Finance Limited to the Court sale. Reference has been made in this connection to prior order dated 16.10.2018 and the fact that for a period of over four years inspite of directions issued in the said order to the Court Receiver to sell the subject flats by public auction, the desired sale has not been achieved.

9 The learned Counsel appearing for the Plaintiffs has referred to the said order where the statement made by the learned Counsel for the India Infoline Finance Limited was recorded, viz. India Infoline

Finance Limited had no objection to the properties mortgaged being sold through the Court Receiver and amount received from the sale consideration. Similar statement had been made on behalf of Kapol Co-operative Bank Limited.

10 Having considered the submissions as well as noting that the prior Court sale/sale by public auction was not successful as reported by the Court Receiver, one last opportunity requires to be given for effecting the Court sale of the subject property. Hence the following order is passed:

i) The Court Receiver is directed to hold meeting on 06.01.2023 at 3.30 p.m. for fixing schedule of Court sale including issuance of fresh public notice which shall be in widely circulated in newspapers mentioned above. Needless to state that in the event the Court sale conducted by the Court Receiver of the subject properties if proved to be unsuccessful then the applications filed by Kapol Co-operative Bank Limited and India Infoline Finance Limited shall be considered.

ii) The Court Receiver shall follow the requisite procedure for the Court sale within a period of six weeks from the date

of this order.

iii) The Court Receiver shall file fresh report disclosing the steps taken towards the Court sale and offers, if any, received which shall be placed before this Court on 27.02.2023.

iv) The costs of the report amounted to Rs.5,000/- is allowed to be recovered from the suit account.

v) With regard to the prayer clause (d) of the Court Receiver's Report which seeks necessary directions to the judgment debtors for payment of outstanding maintenance and other charges, the Court Receiver states that he will reserve that prayer to be made in the next report.

vi) It is clarified that costs and charges for the exercise of conducting the fresh Court sale/public auction shall be borne by the judgment debtors.

vii) The Court Receiver's Report No.318 of 2022 is accordingly disposed of.

viii) Interim Application shall be placed on 27.02.2023.

(R.I. CHAGLA, J.)

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signed by
WAISHALI
SUSHIL
WAGHMARE
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