

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL REVISION APPLICATION NO. 108 OF 2023

Romell Housing LLP and Anr. ...Applicants

vs.

Sameer Salim Shaikh and Ors. ...Respondents

WITH
INTERIM APPLICATION NO. 144 OF 2024
IN
CRIMINAL REVISION APPLICATION NO. 108 OF 2023

Khurshid Nooruddin Shaikh and Ors. ...Applicants

In the matter between

Romell Housing LLP and Anr. ...Applicants

vs.

Sameer Salim Shaikh and Ors. ...Respondents

Mr.G.S.Godbole – Senior Advocate a/w Mr.Drupad Patil and
Mr.Dheeraj Patil – Advocates for Applicants.

Mr.Chaitanya Pendse a/w Mr.Deepak Shukla – Advocates for
Respondent No.1.

Mr.H.J.Dedhia – APP for Respondent No.2 – State.

Mr.Rohan Savant i/b. Mr.Laxman Jain – Advocate for Respondent
Nos.3 and 4.

Ms.Chipkar – Master (Adm.) - Office of Court Receiver, present.

CORAM : S. M. MODAK, J.

DATE : 27th FEBRUARY 2024

P. C. :-

1. Heard learned Senior Advocate Shri.Godbole for the Applicants.

In continuation of the earlier arguments, he submitted that there is no need to pass a separate order under Section 145(1) of the Code of Criminal Procedure, 1973 [“Cr.P.C.”] as contended by Mr.Pendse on the earlier date.

2. He made following submissions :-

- (a) As there is a Division Bench order thereby ordering an initiation of the proceeding under Section 145 of the Code and as it is confirmed by Hon’ble Supreme Court, there is no need to pass such order.
- (b) He invited my attention to the order dated 16th February, 2018 (Page No.10) of the compilation filed today and order dated 6th April, 2018 (Page No.17) passed by the Court of Metropolitan Magistrate, 26th Court, Borivali, Mumbai.

3. During arguments, he invited my attention to :-

- (a) Affidavits filed by the Police (Page No.259).
- (b) Copy of Deed of Surrender of Possessory Cum Tenancy Rights dated 6th June, 2016 executed in between Mr.Manpreet Singh Bajaj and M/s. Valentine Properties Private Limited (Page No.88).
- (c) Letter of possession dated 6th June, 2016 (Page No.112).
- (d) Letter of physical possession dated 11th April, 2017 (Page No.113).
- (e) Deed of Assignment cum Surrender of Possessory Title

and Physical Possession dated 10th December, 2016. (Page No.133). He invited my attention to the signatures thereon, thumb impression.

- (f) Electricity bill and Assessment Tax of the structure.
- (g) Valuation report dated 20th September, 2016 at Page Nos.500, 505 and Page No.510. (Volume – II).

4. During arguments, he invited my attention to following documents :-

- (a) Google map annexed on Page No.24 and the map prepared by City Survey Office on Page No.25.
- (b) They are submitted to the Office of Court Receiver
And
- (c) A report given by the City Survey Office dated 17th December, 2019 (Page No.18) of today's compilation.

5. In addition to that, he invited my attention to the following facts / documents :-

- (a) Letter of Physical Possession dated 10th December, 2016. (Page No.131).
- (b) General Power of Attorney dated 10th December, 2016. (Page No.117).
- (c) Adjudication Order (Page No.151) and Challan at Page Nos.155 and 156.
- (d) Deed of Assignment of Possession and Possessory Title (Page No.158). More specifically invited attention to Page

No.166 towards Clause No.M which mentions entire consideration of Rs.47,00,000/- (Rupees Forty Seven Lakhs Only).

- (e) Order dated 14th December, 2018 passed by a Division Bench to show that they will have to show that they were in possession of the property lawfully. (Page No.178).
 - (f) First Information Report dated 22nd April, 2017 (Page No.109).
 - (g) Statement given by Sameer Saleem Shaikh dated 22nd April, 2017 (Page No.112). More specifically Para No.2 (Page No.114).
 - (h) Letter dated 12th June, 2017 (Page No.202) written by the Police Inspector – Dahisar Police Station to the Public Prosecutor. More specifically Para No.3 of Page No.205 showing nothing produced before the Magistrate.
 - (i) Certificate under Section 65-B of Indian Evidence Act, 1872 (Page No.207) and Bank statement (Page No.208) showing all payments are credited in his Bank account.
6. Stand over to **18th March, 2024**. To be listed at **2.30 p.m.**
7. An ad-interim relief, granted earlier, to continue till next date.

[S. M. MODAK, J.]