

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

**INTERIM APPLICATION NO. 9148 OF 2024
IN
WRIT PETITION NO. 8677 OF 2011**

Najib Hamza Kader

.. Applicant

Versus

The State of Maharashtra & Ors.

.. Respondents

Mr. Naushad Engineer and Mr. A. T. Anand a/w. Mr. Jay Zaveri and Mr. Vinay Khatri i/b. Crawford Baylay & Co. for the Applicant.

Mr. O.A. Chandurkar, Addl GP with Ms. Prachi Tatke Addl.G.P. for the Respondent No.1-State.

Mr. Samir Suryawanshi a/w. Mr. Abhishek Deshmukh a/w. Ms. Bhakti Wast i/b. Sanjiv Sawant for the Respondent Nos. 6,7,9 & 10.

**JYOTI
RAJESH
MANE**

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**CORAM: KAMAL KHATA AND
SHYAM C. CHANDAK, JJ.
(Vacation Court)**

DATE : 3rd JUNE 2024

PC :

1) By this Interim Application No.9148/2024 the Applicant seeks appointment of Court Receiver as more particularly stated in prayer clause

(a) of the Interim Application which reads as under:-

‘(a) This Hon’ble Court be pleased to appoint the Court Receiver, High Court Bombay, with all powers under Order 40, Rule 1 of the Code of Civil Procedure, 1908 in respect of property being land bearing Survey No.61, Hissa No.3 (New Survey No.103, Hissa No.3) admeasuring about 0H-11R-6P and land

admeasuring survey No.62, Hissa No.8B(pt) (New Survey No.102, Hissa No.3) admeasuring about 0H-17R-0P, with power to remove all illegal encroachments and unauthorized constructions carried out upon the said Property in disregard and contravention of the said Order dated 8th November 2011 passed by this Hon'ble Court;'

2) Learned counsel Mr. Engineer for the Applicant submits that by an Order dated 8th November, 2011 this Court granted interim stay in terms of prayer clause (c) and (d) of the Writ Petition, which are as under:

‘(c) that, pending the hearing and final disposal of this Petition, this Hon'ble Court be pleased to stay the operation and implementation of:

(i) the Order dated 14th July, 2010 passed by the SDO (Respondent No.4);

(ii) the Order dated 18th February, 2011 passed by the Deputy Collector (Respondent No.3); and

(iii) the Order dated 25th August 2011 passed by the Addl. Commissioner, Konkan Division (Respondent No.2);

d) that, pending the hearing and final disposal of this Petition, this Hon'ble Court be pleased to restrain the Respondents, by an Order and Injunction of this Hon'ble Court, from in any manner whatsoever interfering with the Petitioner's possession of the said property;'

3) Learned counsel Mr. Engineer further submits that, apparently the lock that was put up by the Applicant, as can be seen from the photograph at page 21 - Exhibit C of the Interim Application, have been changed, which can be evinced from the photograph at page 32 of the Interim Application. He further states that there is some sort of

construction which is being carried out and that can be evinced from the photographs at pages 24 and 26 of the Interim Application. The apprehension of Mr. Engineer is that, Respondent Nos. 6 to 10 may have done it and are feigning ignorance.

4) Learned counsel Mr. Suryawanshi for Respondent No.6, 7, 9 and 10 submits that Respondent No.8 has expired, but he is unaware of the date. He further seeks time to take instructions and file an affidavit in reply. He however states that, no construction has been carried out by his clients and nor has his clients changed the lock as alleged. He submits that Respondent Nos. 6 to 10 are not involved in changing of the locks as well as the construction.

5) We have heard both the counsels and we find that in view of change of the locks as well as construction being carried out on the said property inspite of there being an Order of this Court passed, way back on 8th November, 2011, Receiver as prayed for in prayer clause (a) of the Interim Application deserves to be granted for the present as an interim measure. Hence, the following order is passed:

i) The Court Receiver, High Court Bombay is appointed Receiver as prayed for in prayer clause (a) of the Interim Application.

- ii) The Court Receiver to submit a report after breaking open the lock and take inspection and photos of the entire property and record the nature of the construction that is being carried out at the site and find out by whom and/or under whose instructions.
- iii) The Court Receiver is directed to take symbolic possession of the said premises and after having taken the inspection, the Court Receiver shall put up his own lock.
- iv) If necessary, Police protection at the cost of Applicant, be taken.
- v) The local Police station shall grant necessary protection if sought by the Court Receiver.
- vi) The Court Receiver to submit his report to this Court on or before 20th June 2024.
- vii) List the matter on 24th June 2024.
- viii) Parties to act on the authenticated copy of this Order.

(SHYAM C. CHANDAK,J.)

(KAMAL KHATA, J.)