

Kavita S. J.

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

**COURT RECEIVER'S REPORT NO.139 OF 2023
IN
EXECUTION APPLICATION NO.210 OF 2011
IN
SUIT NO.3782 OF 1989**

Seema King & Anr., **...Plaintiffs**

Versus

Bhagwan Tuljaram Shahani & Ors., **...Defendants**

AND

**COURT RECEIVER'S REPORT NO.331 OF 2023
IN
EXECUTION APPLICATION NO.210 OF 2011**

Ms. Monil Punjabi i/b Rajesh Sahani, Advocate for Plaintiffs.
Niket Jani i/b Vigil Juris, Advocate for Defendant Nos. 2, 3 and 6.
Ms. Jyoti Shahani, C/A of Defendant No.7 in person present.
Ms. Charushila Vaidya, IInd Assistant to the Court Receiver present.

CORAM : R.I. CHAGLA J.

DATE : 16TH JANUARY, 2024.

ORDER :

**KAVITA
SUSHIL
JADHAV**

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1. The Court Receiver's Report dated 25th April, 2023 is placed before this Court. The Court Receiver has sought directions

with regard to the steps to be taken by the Court Receiver for sale of the Suit Flat viz. Flat No.31 situated at Block No.7, Shyam Niwas, Bhulabhai Desai Road, Mumbai – 400 026 (“the Suit Flat”) as parties have failed to find a buyer. It is mentioned in the Court Receiver’s Report that a prior attempt at Court sale had failed, and which fact has also been recorded in the order dated 8th February, 2023 passed by this Court. In the said order, it was recorded that the bids/offers received by the Court Receiver were much below the value of the Suit Flat arrived at by the Valuer - M/s Nadkarni & Company. In view thereof, the parties had jointly agreed for the sale of the Suit Flat to be carried out through private treaty.

2. In Court Receiver’s Report it is mentioned that the process of private treaty was to be carried out by the parties within a period of two months within which the interested purchasers for the Suit Flat would be identified. Upon their identification, the interested purchasers, were to remain present before the Court on the next date of hearing.

3. Thereafter, the parties through their Advocates at a meeting with the Court Receiver dated 21st March, 2023 submitted

that they were unable to find a buyer. The parties were directed to inform the office of the Court Receiver in the event any buyer had approached them.

4. At the hearing on 17th April, 2023, the learned Counsel for the Plaintiffs had stated that the Plaintiffs had been unable to find a buyer in respect of the Suit premises. This Court had accordingly directed the Court Receiver to file a Report seeking directions for holding a Court sale. Accordingly, the present Court Receiver's Report has been filed.

5. The Court Receiver's Report had come up before this Court on 25th August, 2023 when the submission was made by the learned Advocate for the Defendant No.7 that for the purpose of Court sale, the public notice should mention the reserve bid price. This is in view of the earlier Court sale having failed as the bids received were much less than the valuation.

6. Accordingly, this Court by order dated 25th August, 2023 directed the office of the Court Receiver to submit a Report about fixing the reserve bid price and thereafter directions will be given.

7. In view of the directions of this Court vide order dated 25th August, 2023, the Court Receiver has submitted a fresh report being Court Receiver's Report No.331 of 2023 dated 11th September, 2023.

8. The Court Receiver had for valuing the Suit premises appointed a Valuer whose Valuation Report was placed in a sealed cover.

9. The sealed cover containing the Valuation Report, is opened and its contents noted. Accordingly, the reserve bid price had been fixed.

10. The learned Counsel appearing for the Plaintiff and learned Counsel for Defendant Nos. 2, 3, 1, 6 as well as Defendant No.7 who appears in person, have no objection to the reserve bid price being indicated in the Public Notice to be issued by the Court Receiver for Court sale of the Suit Flat.

11. Having perused Rule 529 of the Bombay High Court (O.S.) Rules, it is provided that unless otherwise ordered, the reserved bid shall not be divulged to any person either before, at or after the sale.

Thus, this Rule contemplates that there may be an order for divulging reserve bid price prior to the Court sale having been effected and particularly when the parties have no objection to the reserve bid price being divulged.

12. In the present circumstances, particularly considering that there has been a prior Court sale where bids received were much lower than the value arrived at by the Valuer in respect of the Suit premises. As well as the fact that the sale by private treaty which was allowed by this Court having been unsuccessful, it would be in the interest of parties as well as the proposed bidders that the reserve bid price is in fact divulged so that the bidders may be in position to know the reserved bid price for arriving at a higher bid than that of the reserved bid price for the Suit flat

13. Accordingly, whilst fixing the schedule for conducting Court sale of the Suit flat, the Court Receiver is directed to issue public notice divulging the reserve bid which has been fixed by this Court.

14. The Court Receiver shall accordingly fix the schedule for conducting a Court sale in respect of the Suit flat.

15. The Defendant No.7 shall comply with the undertaking to deposit any amount called for by the Court Receiver in relation to the Court sale for the Suit flat including but not limited to publishing of the Notice etc. Further, the directions with regard to the maintenance bill of Rs.23,76,309/- to be paid by the Court Receiver to the Society, once the Suit flat is sold and appropriated out of the sale proceeds thereof shall continue to operate.

16. In the event of any additional maintenance charges of the society and for which the society has raised the bill, the same shall be paid by the Court Receiver from the sale proceeds of the Suit flat.

17. The Court Receiver shall endeavour to carry out the Court sale within a period of four weeks from today.

18. The Court Receiver shall submit the offers/bids to this Court alongwith the Earnest Money Deposit (EMD) on 20th February, 2024 and a Report shall also be filed by the Court Receiver on or before that date.

19. In view of the parties having failed to identify a buyer for the Suit flat, this Court has directed a Court sale.

20. In view thereof, the Court Receiver's Report No.139 of 2023 and Court Receiver's Report No.331 of 2023 are disposed of.

21. The costs of Reports amounting to Rs.5,000/- each shall be recovered from the Suit Account.

22. Stand over to 20th February, 2024.

[R.I. CHAGLA, J.]