

Shephali

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

INTERIM APPLICATION (L) NO. 26994 OF 2021

IN

SUIT NO. 406 OF 2022

WITH

APPEAL NO. 66 OF 2024

IN

INTERIM APPLICATION (L) NO. 26994 OF 2021

WITH

INTERIM APPLICATION NO. 2384 OF 2023

IN

SUIT NO. 406 OF 2022

Praksh Kishenchand Sapra ...Applicant

In the matter between

Praksh Kishenchand Sapra ...Plaintiff

Versus

M/s. Azalea Holiday Inn Pvt Ltd & Ors ...Defendants

Mr Archit Jayakar, with Mihir K, i/b Jayakar & Partners, for the Plaintiff.

Mr Annuj N Narula, i/b Jhangiani Narula & Associates, Defendants Nos.

1 to 6.

Mr Sunil Khandagale, with GO Giri, for the Respondent-BMC.

Ms Charushila Vaidya, Ind Assistant to the Court Receiver, present.

CORAM: ARIF S. DOCTOR, J

DATED: 1st July 2024

PC:-

1. The disputes and differences in this matter pertain to a property known as 'Kashish Kunj'. This Court vide its earlier orders appointed the Court Receiver, High Court, Bombay in respect of the Suit property. Today, the Court Receiver is present and seeks one week's time to file the Report indicating the steps taken by the Court Receiver as also the status of the Suit property.

2. Mr Jayakar, Learned Counsel appearing on behalf of the Plaintiff has submitted that out of the various rooms in the said property, all the rooms, save and except those stated to be occupied by Defendant No. 2 and/or his son have been vacated. It is the contention of Mr Jayakar that Defendant and/or his son cannot be permitted to use and occupy the said property without paying any royalty and/or license fees in respect of the same.

3. Mr Narula submits that the question of today directing Defendant No. 2 to make payment or putting Defendant No. 2 on any terms for occupying the said property does not arise since Defendant No. 2 has filed an Appeal challenging the order, by which the Court Receiver was appointed and that Appeal is pending.

4. In view of the above facts, let the Court Receiver file a Report, and list this Report on 8th July 2024 at 2.30 pm.

5. Mr Jayakar is at liberty to file an Application for the purposes of payment of rent and/or royalty by Defendant No. 2 and/or the son of Defendant No. 2.

6. Mr Jayakar further points out that on the previous occasion one of the issue raised is that since the Plaintiff has been appointed as an agent of the Court Receiver, to safeguard the disputed property, the necessary steps would have to take such as putting CCTV and Security Guards. This issue shall also be considered at the next date.

(ARIF S. DOCTOR, J)