

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

COURT RECEIVER REPORT NO.71 OF 2024  
IN  
INTERIM APPLICATION (L) NO.27960 OF 2022  
IN  
EXECUTION APPLICATION (L) NO.27838 OF 2022

SUREKHA DILIP GAWAND & ORS. )ORIGINAL PLAINTIFF  
V/s.

PARAS SUNDERJI DEDHIA AND ANR. )JUDGMENT DEBTORS

WITH  
EXECUTION APPLICATION (L) NO.394 OF 2023  
WITH  
INTERIM APPLICATION NO.374 OF 2023  
IN  
EXECUTION APPLICATION (L) NO.394 OF 2023  
WITH  
INTERIM APPLICATION NO.549 OF 2023  
IN  
SUIT NO.48 OF 2023  
WITH  
INTERIM APPLICATION (L) NO.3188 OF 2024  
IN  
COMMERCIAL SUIT NO.242 OF 2021  
WITH  
CONTEMPT PETITION NO.106 OF 2019  
IN  
SUIT NO.440 OF 2018  
WITH  
CONTEMPT PETITION NO.61 OF 2019  
IN  
NOTICE OF MOTION NO.693 OF 2018  
WITH  
COUNTER CLAIM (L) NO.6422 OF 2022  
IN  
SUIT NO.388 OF 2022  
WITH  
INTERIM APPLICATION (L) NO.7447 OF 2022  
IN

COUNTER CLAIM (L) NO.6422 OF 2022  
WITH  
SUIT NO.388 OF 2022  
WITH  
INTERIM APPLICATION NO.3385 OF 2023  
IN  
SUIT NO.388 OF 2022  
WITH  
INTERIM APPLICATION (L) NO.24681 OF 2023  
IN  
SUIT NO.388 OF 2022  
WITH  
CONTEMPT PETITION (L) NO.26144 OF 2023  
IN  
SUIT NO.388 OF 2022  
WITH  
COUNTER CLAIM (L) NO.6422 OF 2022  
IN  
SUIT NO.388 OF 2022  
WITH  
INTERIM APPLICATION NO.1804 OF 2023  
IN  
SUIT NO.388 OF 2022  
WITH  
INTERIM APPLICATION (L) NO.2041 OF 2024  
IN  
SUIT NO.388 OF 2022  
WITH  
INTERIM APPLICATION (L) NO.36089 OF 2023  
IN  
SUIT NO.388  
WITH  
INTERIM APPLICATION (L) NO.1684 OF 2021  
IN  
SUIT NO.388 OF 2022  
WITH  
INTERIM APPLICATION NO.1804 OF 2023  
IN  
SUIT NO.388 OF 2022  
WITH  
INTERIM APPLICATION (L) NO.3831 OF 2024

IN  
INTERIM APPLICATION NO.1804 OF 2023  
WITH  
INTERIM APPLICATION NO.5049 OF 2022  
IN  
SUIT NO.302 OF 2021  
WITH  
INTERIM APPLICATION NO.209 OF 2022  
IN  
SUIT NO.302 OF 2021  
WITH  
INTERIM APPLICATION NO.3385 OF 2023  
IN  
SUIT NO.388 OF 2022  
WITH  
INTERIM APPLICATION NO.208 OF 2022  
IN  
SUIT NO.302 OF 2021  
WITH  
INTERIM APPLICATION NO.4710 OF 2022  
IN  
COMMERCIAL SUIT NO.242 OF 2021  
WITH  
INTERIM APPLICATION (L) NO.24681 OF 2023  
IN  
SUIT NO.388 OF 2022  
WITH  
APPEAL (L) NO.2121 OF 2024  
IN  
INTERIM APPLICATION (L) NO.24681 OF 2023  
WITH  
CONTEMPT PETITION (L) NO.26144 OF 2023  
IN  
SUIT NO.388 OF 2022  
WITH  
INTERIM APPLICATION (L) NO.27924 OF 2023  
IN  
SUIT (L) NO.27920 OF 2023  
WITH  
CONTEMPT PETITION NO.7 OF 2020  
IN

**SUIT NO.173 OF 2018  
WITH  
INTERIM APPLICATION (L) NO.31598 OF 2022  
IN  
EXECUTION APPLICATION (L) NO.4566 OF 2022  
WITH  
INTERIM APPLICATION (L) NO.34202 OF 2023  
IN  
EXECUTION APPLICATION (L) NO.34196 OF 2023**

Mr. Chetan Kapadia, Senior Advocate a/w Mr. Shanay Shah, Mr. Paras Gosar i/b Ms. Swati N. Chheda, Advocates for the Applicant/Plaintiff in IAL/27924 in SL/27920/2023.

Mr. Malcolm Siganporia a/w Mr. Yash Mommaya, Mr. Paras Gosar i/b. Jayesh R. Vyas, Advocates for the Plaintiff in Suit No.388/2022.

Ms. Neeta Jain a/w Mr. Dhrumil C. Shah i/b. Lex Services, Advocates for the Applicant/Plaintiff in IAL/3188/2024 a/w. IA/4710/2022 in COMS/242/2021.

Mr. Mustafa Doctor, Senior Advocate a/w Ms. Nandini Singh Modi, Mr. Zia Rehman, Ms. Pooja Harit i/b Mr. Manoj Harit and Co., Advocates for the Ombs Builders LLP-Intervenor in IA/3831/2024.

Mr. Bhavin Gada a/w Mr. Dhaval Visawadia, Ms. Dharni Savla i/b Harakchand & Co., Advocates for the Plaintiff in Suit No.48/2023 and Suit No.302/2021.

Mr. Aadil Parsuramporia i/b Mr. Mehul Rathod, Advocates for Applicants/Decree Holders in IAL/27960/2022, IAL/31598/2022 and IAL/34202/2023.

Mr. K.P. Shah, Advocate for the Defendants No.1 and 2 in all matters.

Mr. S.K. Dhekale, Court Receiver, present in Court.

**CORAM : ABHAY AHUJA, J.**

**DATE : 7<sup>th</sup> FEBRUARY 2024**

**PC. :**

1. Pursuant to earlier orders of this Court dated 17<sup>th</sup> January 2024 (Coram : Smt.Bharati Dangre, J.) and dated 30<sup>th</sup> January 2024 (Coram : R.I.Chagla, J.), the representatives of the Court Receiver visited the site of the project known as Yash Signature on the plot of land bearing C.T.S.Nos.437, 437/6 to 16 of Village Deonar, Taluka Kurla, District Mumbai Suburban, situated at Arjun Gawand Estate, Opp. Telecom Factory, Sion Trombay Road, Mumbai – 400 088 to inspect the said premises and to obtain the details of the occupants and the basis of such occupation of the units comprising of flats / office / shops in the said building.

2. Today when the matter is called out, Mr.S.K.Dhekale, learned Court Receiver is present in the Court and seeks to submit report dated 7<sup>th</sup> February 2024 which records in paragraphs 5, 6 and 7 as under :

*“5. The representatives of Court Receiver noticed that there were 36 flats, 2 Commercial offices and 7 shops in the suit projects out of which 12 owners have given their flats on rental basis, 15 flats were found in locked condition, 17 flats are occupied by flat owners and one 2 BHK flat is used as Temporary Society’s Office.*

*6. The Representatives took photographs of each and every flat/office/shop for office record. The representatives of the Court Receiver obtained detailed information regarding occupancy of the suit project. However, nobody has provided documents except the photocopy of registered PAAA of Flat No.1602. Information of occupants is annexed herewith in tabular form.*

*7. The Representatives of Court Receiver also noticed that adjoining open land was covered with tin – shed by new builder i.e. Ombs Builders LLP. The persons present at said open land restrained the representatives to visit the said land. Therefore, representatives could not visit the said open land (B – wing).”*

3. From the above, it is clear that the orders of this Court referred to above could not be complied with fully.

4. Mr.Chetan Kapadia, learned Senior Counsel for the Plaintiffs/Applicants in Suit No.388 of 2022 as well as Suit (L) No.27920 of 2020 would submit that considering that the Plaintiffs in these suits as well as other connected suits as well as execution proceedings are yet to receive the outstanding transit rent as well as occupation of the promised flats / offices / shops, it is imperative that the Court Receiver receives police assistance in complying with the orders of this Court. In addition, learned Senior Counsel would submit that in order to ascertain the legal occupancy of the said flats / offices / shops, this

Court direct that each of such unit holders furnish to the office of the Court Receiver the title documents.

5. The learned Counsel/Advocates appearing in Interim Application (L) No.27960 of 2022 in Execution Application (L) No. 27838 of 2022 and in Interim Application (L) No.3188 of 2024 in Suit No.242 of 2021 also support the submissions made by Mr. Kapadia.

6. Mr.Parsuramporia, learned Counsel in Interim Application (L) No.27960 of 2022 in Execution Application (L) No. 27838 of 2022 and Ms.Neeta Jain, learned Counsel in Interim Application (L) No.3188 of 2024 in Suit No.242 of 2021 submit that although their clients hold units in Yash Signature, this Court direct the Court Receiver to act as such in respect of the said units as well.

7. Mr.Doctor, learned Senior Counsel appears for the Intervenor viz. OMBS Builders LLP and submits that his client had earlier entered into an agreement with the original Defendant no.1 and with Yash Builders, original Defendant no.2 to take over the Tower B of Yash Signature and the disputes between the parties pending in this Court could be resolved if this Court would consider granting some time so as to

enable the Intervenor to ascertain the situation and talk to the proposed unit holders. Mr.Doctor also submits that the part of the order that has been kept in abeyance be continued till the next date so that endeavour to settle / resolve the disputes can also be made, failing which, this Court may direct the Court Receiver to take possession of the vacant units in Tower A of the Yash Signature project and the vacant land adjacent to the said building.

8. Mr.Shah, learned Counsel appears in the Court on behalf of Mr.Paras Dedhia, original Defendant no.1 and submits that as on date Mr.Dedhia has been taken into police custody on 1<sup>st</sup> February 2024 and his remand Application would be coming up for hearing on 8<sup>th</sup> February 2024 and therefore although his client is keen to co-operate with the Court Receiver, being in police custody, he would be unable to do so. Learned Counsel submits that he has just received a copy of the Court Receiver's Report and would take detailed instructions from his client and seeks some time in the matter.

9. It is not in dispute that comprehensive orders have been passed by this Court not only recording the conduct of the original Defendant no.1 who statedly is in police custody but also directions have been

issued to the Court Receiver to obtain necessary details from persons in occupation of the units in the project Yash Signature and to submit report after confirming occupancy in respect of each of such units in Tower A of the project, which as noted above, could not be complied with for the reasons stated in the report as nobody has provided documents except photocopy of registered PAAA of Flat No.1602 and Office premises No.102. The learned Court Receiver who is present in the Court confirms that although he has a list of the occupants of Tower A of the project Yash Signature but since none of the occupants have provided documents, except as mentioned in paragraph 6 of the report, it has not been possible for him to confirm the occupancy and seeks further directions from this Court.

10. Considering the submissions made by the learned Senior Counsel and the Counsel as well as the Court Receiver, this Court directs the occupants in Tower A of project Yash Signature to furnish to the Court Receiver, within a period of two weeks, originals of the registered PAAA along with an affidavit stating the unit number and the document(s) based on which they have obtained the said occupancy.

11. It is clarified that earlier orders dated 17<sup>th</sup> January 2024 and 30<sup>th</sup> January 2024 of this Court also apply to the case of the Applicants in Interim Application (L) No.27960 of 2022 in Execution Application (L) No. 27838 of 2022 and in Interim Application (L) No.3188 of 2024 in Suit No.242 of 2021.

12. List on **27<sup>th</sup> February 2024**. Let Mr.Shah, the learned Advocate for the original Defendant no.1 also obtain instructions by the next date.

13. Let a copy of this order be displayed at a prominent place of the Tower A of Yash Signature and let the learned Counsel also inform the parties concerned to co-operate with the Court Receiver.

**(ABHAY AHUJA, J.)**