

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

COURT RECEIVER'S REPORT NO. 96 OF 2024

IN

SUIT NO. 933 OF 2016

Moushami Amit Bajaj & Ors

...Plaintiffs

Versus

Kamalashri Builders & Ors

...Defendants

Mr. Naushad Engineer, Senior Counsel a/w Malcolm Signporia and Mt.
P. A. Jani i/by Vigil Juris Advocates and Solicitors for the Plaintiffs.

Mr. Mayuresh J. for Defendant Nos.7 to 13.

Mr. Aadil Parsurampururia a/w Darshana Vora i/by M/s. Legal Vision for
Defendant Nos.14, 16 & 17.

Mr. Bharat R. Zaveri for Defendant No.15.

Mr. Nitin Pawar, OSD, Court Receiver is present.

CORAM: ARIF S. DOCTOR, J

DATED: 20th December 2024

PC:-

1. This captioned Court Receiver Report has been filed seeking various prayers, primarily the Court Receiver has sought a discharge stating that since redevelopment of the building in question

was to be completed under the agents of the Court Receiver and no steps have been taken by the parties, thus discharge was sought. The Court Receiver has also in the alternative sought prayer clause (e) which reads thus:-

“(e) If the prayer (a) is negative then, what steps Court Receiver should take to complete suit project as the flat purchasers have not deposited the balance consideration in the office of the Court Receiver as per Order dated 25th November, 2016;”

2. Heard Learned Counsel for the parties. Mr. Engineer, Learned Senior Counsel appearing on behalf of the Plaintiffs at the outset clarified that the Plaintiffs were not pressing for discharge of the Court Receiver. This was equally accord by Learned Counsel appearing on behalf of Defendant Nos.14, 16 and 17 and Learned Counsel appearing on behalf of Defendant No.15. It is common that all the parties represented before the Court today are all flat purchasers in respect of the said building and all of whom would want the building to be completed.

3. In this regard it was pointed out that this Court had on a previous occasion appointed Mr. Shetgiri as Architect to assess the said construction that already stands on the building. Mr. Shetgiri has submitted his report. Since today the proposal made by Learned Senior

Counsel appearing on behalf of the Plaintiff was that the Plaintiff would complete the construction at his own costs which was opposed by the other Defendants, however, all of them sought the liberty for placing their respective proposals for redevelopment so as to ensure (i) that the developer be made to contribute to the redevelopment and (ii) the best possible exploitation of the FSI in question as per the prevailing laws.

4. In this regard, I pass the following order:-

- i. Let the meeting be held in the office of the Court Receiver where Mr. Shetgiri is present.
- ii. The Plaintiffs and Defendants, who are present today shall also be permitted to submit their individual plans/proposals along with their respective Architects for the said redevelopment.
- iii. Let this be considered by the Court Receiver, who shall then prepare a report on this basis and submit the same to this Court.

5. At this stage, Mr. Parsurampurua, Learned Counsel appearing on behalf of Defendant Nos.14, 16 and 17 has invited my attention to the order dated 8th October, 2024 and pointed out that by

my previous order, notice had been issued to Defendant Nos.1 to 6 (developers). However, since the notice is unserved, returnable date of notice is extended upto and including 24th January, 2025 to ensure the presence of the developers. A copy of this order shall also be served upon the developers by Learned Counsel for the Plaintiffs as also for the Defendants.

6. It is made clear that if on the next date the developers are not present, the Court shall be constrained to issue a non-bailable warrant to ensure their presence.

7. The Court Receiver Report is disposed of in the aforesaid terms.

8. The Plaintiffs to pay costs of Rs.5,000/- to the Court Receiver in terms of prayer clause (d).

9. List the Suit on 24th January, 2025 along with Interim Application (L) No.35156 of 2024.

(ARIF S. DOCTOR, J)