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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
O.O.C.J.

COURT RECEIVER REPORT NO. 267 OF 2024
IN
SUIT NO. 2099 OF 1996

Usha Sureshchandra Jhaveri .. Plaintiff
Versus
Himanshu Sureshchandra Jhaveri and Ors. .. Defendants

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- Mr. Mayuresh Ingale i/by Heena Mody, Advocate for Plaintiff.
 - Mr. Vinayak R. Kumbhar, Advocate for Defendant Nos.1, 3 to 6.
 - Mr. S.K. Dhekale, Court Receiver, High Court, Bombay.
 - Mr. Nitin Pawar, Officer on Special Duty, Court Receiver, High Court, Bombay.
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CORAM : MILIND N. JADHAV, J.

DATE : JULY 23, 2024.

P.C.:

1. Heard Mr. Ingale, learned Advocate for Plaintiff; Mr. Kumbhar, learned Advocate for Defendant Nos.1, 3 to 6 and Mr. Dhekale, Court Receiver, High Court, Bombay.

2. Perused the Court Receiver Report which has been filed consequent to the judgment dated 10.06.2024 passed by this Court while disposing of Suit No.2099 of 1996 in respect of one of the Suit property namely; office premises on second floor, Pancharatna Building, Pipla Street, Jadakhadi, Mahidharpura, Surat (Gujarat) (for short "**the said premises**").

3. As delineated in the order dated 05.07.2024 it is seen that the Court Receiver has filed final report. Defendant No.1 is the agent of the Court Receiver by virtue of the order passed by this Court. According to the Court Receiver, an amount of Rs.1,00,950/- is the total outstanding amount due and payable to the Court Receiver in respect of the entire Suit account including the aforesaid immovable property. As against this, the Court Receiver's Report states that the Court Receiver holds amount of Rs.22,500/- and a further amount of Rs.33,424.06 in the Suit account to be returned back to the Defendants. Out of the aforesaid amount, amount of Rs.25,000/- is in the fixed deposit account. Necessary direction is sought by the Court Receiver to adjust the aforesaid twin amounts held by the Court Receiver including any accrued interest receivable on the fixed deposit receipt. The total outstanding amount of Rs.1,00,950/- *inter alia*, pertains to the Suit account.

4. Both the learned Advocates appearing for the Plaintiff and the Defendants are present before me. On a suggestion made to them that in view of the Court Receiver's Report and the outstanding amount due and payable to the Court Receiver in so far as the Suit proceedings are concerned, the amounts which are held by the Court Receiver can be adjusted and the balance amount can be paid by the parties.

5. Both the learned Advocates present before me have taken inspection of the Suit account and have no objection to the same. Advocate for Plaintiff has no instructions to make any statement for making payment of the balance amount in so far as the Suit account is concerned. Advocate for Defendant No.1 would submit that he has instructions to pay the outstanding amount in the Suit account as per the decision given in the judgment dated 10.06.2024, since the said office premises at Surat have come to the share of the Defendants and it would be in the interest of justice if Defendants are permitted to pay the entire balance amount, but with a caveat that the Defendants shall be entitled to recover 50% of the said amount from the Plaintiff. The submission and suggestion made by the learned Advocate for Defendants *prima facie* appears to be fair as Plaintiff has refused to pay for want of instructions and the property at Surat cannot be kept *custodia legis* after judgment.

6. In view of the judgment dated 10.06.2024, if the Plaintiff has refused to pay her share to the Court Receiver regarding the outstanding amount in the Suit account, the Defendants cannot be prejudiced for that reason. Hence I allow Defendant No.1 to pay the balance outstanding amount to the Court Receiver as mentioned in the Court Receiver's Report and permit them to recover the Plaintiff's share therein in accordance with law. In so far as the total outstanding amount of Rs.1,00,950/- is concerned, after the said amount held by

the Court Receiver in the Suit account is adjusted, Defendant No.1 shall have to pay the balance amount in the Suit account to the Court Receiver.

7. It is clarified that, in view of the prayer clause (b) having been granted, the above office at Surat shall no longer be *custodia legis* and Court Receiver shall give the possession of the same to Defendant No.1. Court Receiver is permitted to break the Fixed Deposit and compute the outstanding amount in the Suit account and inform the Defendant No.1 accordingly. Once informed Defendant No.1 shall pay the outstanding amount within one week of intimation. Symbolic possession shall be handed over to Defendant No.1.

8. Mr. Kumbhar, learned Advocate for Defendants would submit that there is one more direction with regard to the said premises which may be given. It is stated that the property tax bill of the said premises is in the name of Jayaben Jhaveri. In view of judgment dated 10.06.2024, it is Defendant No.1 who is now entitled to the said premises. Mr. Kumbhar seeks directions to change the name on the property tax bill of the said premises. Defendant No.1 is permitted to make an appropriate Application for change of name to the Surat Municipal Corporation and if such an Application is made, then the Surat Municipal Corporation shall determine the same strictly in accordance with law. No further directions can be given in this regard.

9. Further in view of the submissions made by the Court Receiver, the submissions made in paragraph No.20 of the Court Receiver Report which was filed on 10.07.2024, it is informed by the learned Advocate for Defendants that there is all likelihood that the RWITC account may be received and maintained by the learned Prothonotary and Senior Master of this Court and not by the Court Receiver. Court Receiver agrees that his office has not maintained any such account. He would submit that in that view of that, an appropriate direction be passed by this Court. Hence, in view of the directions contained in paragraph No.17 of the judgment dated 10.06.2024, the learned Prothonotary and Senior Master of this Court is directed to investigate and ascertain whether he has received any amount from the RWITC with respect to the prize money pertaining to the said horses which is delineated in the judgment. If the learned Prothonotary and Senior Master of this Court is maintaining any account, the said money stands accrued to the benefit of the Plaintiff as decided by the said judgment and the Plaintiff shall be entitled to receive and withdraw the same.

10. In view of the above observations and findings, Court Receiver Report is allowed in terms of prayer clauses (a), (b) and (e).

- 11.** Liberty to apply.
- 12.** With the above directions, Court Receiver Report is disposed.

[MILIND N. JADHAV, J.]

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by AJAY
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