

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
COURT RECEIVER'S REPORT NO.6 OF 2023
WITH
COURT RECEIVER'S REPORT NO.175 OF 2023
WITH
COURT RECEIVER'S REPORT NO.187 OF 2023
WITH
COURT RECEIVER'S REPORT NO.469 OF 2021
WITH
COURT RECEIVER'S REPORT NO.422 OF 2024
WITH
COURT RECEIVER'S REPORT NO.161 OF 2019
IN
SUIT NO.4097 OF 1990

Anil @ Ganesh Janardhan Gavde ...Plaintiff

vs.

Vaishali Rajendra Gavde and Others ...Defendants

Mrs. Bhavana Anklesaria i/b. Mr. Deepak Jamsandekar, for the
Plaintiff

Mr. S.K. Dhekale, Court Receiver, High Court.

CORAM : N. J. JAMADAR, J.

DATE : OCTOBER 10, 2024

P.C.:

1. Heard the learned counsel for the parties.
2. By an order dated 1st September, 1994 in Notice of Motion No. 614 of 1993 the Court Receiver came to be appointed in respect of three buildings namely Shyam Bhuvan, Janardan Bhuvan 'C' and Janardan Bhuvan 'D' building which form part of the suit properties. The buildings are in the occupation of the tenant/occupants. Over a period of time, the condition of the buildings has deteriorated.

3. In the Court Receiver's Report No. 469 of 2021 the Court Receiver has averred that Janardan Bhuvan 'C' building is categorized under 'C-1' category. Shyam Bhuvan building has also been categorized as 'C-1' category by Bhoomi Consultants, the structural engineers appointed by this Court.

4. In view of the dilapidated nature of the building and non-cooperation of the parties in carrying out the structural repairs, and notice issued by the Municipal Corporation, Greater Bombay, the Court Receiver has sought directions from the Court.

5. In the meanwhile, the parties could arrive at a workable arrangement with regard to repairs of Janardan Bhuvan 'D' building and thereupon an order was passed by this Court on 25th September, 2024 permitting the structural repairs to be carried out by Ashwini Associates.

6. In the affidavit filed by the plaintiff in Court Receiver's Report No. 175 of 2023 and the connected matters, the plaintiff has stated in paragraph 13 and 14 as under:-

13] I say that the plaintiff is retired semi-Govt. Pensioner of 76 years old and after he suffered from Corona in June, 2021, he has been suffering from lungs fibrosis since 2021, and is almost bed ridden and is financially drained out. The plaintiff submit that he made all genuine efforts to settle the matter with defendants but are in vain. Thus, left with no alternative plaintiff have decided to give up his claim of undivided 1/6 share in Shyam Bhuvan and Janardan Bhuvan C

building, as claimed in prayer (b-3) of the plaint & plaintiff hereby relinquishes all his rights, title and interest as regards his undivided 1/6 share in the said two suit buildings viz. Shyam Bhuvan and Janardan Bhuvan-C building and the plaintiff shall take out appropriate interim application, to delete the words “Shyam Bhuvan and Janardan Bhuvan-C” from prayer clause (b-3) of the plaint.

14] I further submit that as stated in affidavit in reply of plaintiff dated 16th March, 2022 and additional affidavit in reply dated 15th July, 2023 and affidavit in reply filed in Writ Petition No. 513 of 2021, filed by occupants of Shyam Bhuvan, the said building, Shyam Bhuvan is declared as C-1, by Bhoomi Consultants and the Technical Advisory Committee has declared it as C-2A. Further, defendants as well as occupants of both the buildings are not at all co-operating and have resorted to various unwanted, unauthorized and illegal acts, thus plaintiff as stated herein above hereby relinquishes all his rights, title and interest as regards his 1/6th undivided share in said two building namely Shyam Bhuvan and Janardan Bhuvan C building. I respectfully submit that in given facts and circumstances, this Court may be pleased to direct MCGM to proceed with necessary action in accordance with law, as regards Shyam Bhuvan and Janardan Bhuvan C building and further be pleased to pass such orders as may be found just and proper in the facts and circumstances as stated herein above as regards Shyam Bhuvan and Janardan Bhuvan C building.

7. In view of aforesaid stand of the plaintiff, the Court Receiver has filed this report seeking discharge in respect of Shyam Bhuvan, and Janardan Bhuvan ‘C’ building as the plaintiff has relinquished his rights in the said buildings.

8. Evidently, the condition of Shyam Bhuvan and Janardan Bhuvan ‘C’ buildings has deteriorated over a period of time. The

plaintiff claimed 1/6th share in the said buildings. At the instance of the plaintiff, the Court Receiver came to be appointed. There is an imminent risk of untoward incident, whilst the properties remain Custodia Legis. As the plaintiff has relinquished his interest in the said properties, there is no propriety in continuing appointment of the Court Receiver with regard to Shyam Bhuvan and Janardan Bhuvan 'C' buildings.

9. I am, therefore, inclined to make the Court Receiver's Report No. 422 of 2024 absolute in terms of prayer clause (a) and (b).

10. The Court Receiver stands discharged in respect of Shyam Bhuvan and Janardan Bhuvan 'C' buildings.

11. The rent collected by the Court Receiver, till date, in respect of Shyam Bhuvan and Janardan Bhuvan 'C' building be deposited in the suit account, with the Prothonotary and Senior Master, High Court, Bombay.

12. The Court Receiver shall file the accounts when the Court Receiver stands finally discharged in respect of Janardan Bhuvan 'D' building.

13. In view of the discharge of the Court Receiver, Court Receiver's Report Nos. 6 of 2023; 469 of 2021 and 161 of 2019 do

not survive and also stand disposed alongwith this Report No.422 of 2024.

(N. J. JAMADAR, J.)