

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO. 4838 OF 2024**

Jai Sai Pushpa CHS Ltd.

...Petitioner

Versus

The State of Maharashtra & Ors

...Respondents

Mr. Abhijit Patil for Petitioner.

Ms S. A. Prabhune, AGP for Respondent Nos.1 to 3-State.

Mr. Dinesh Adsulte a/w Mr. Chinmay Bhole for Respondent No.2.

Ms Deepti Thorat i/b Ms Ashwini Jadhav for Respondent No.4.

Mr. N. C. Pawar, Court Receiver a/w Mr. Swyam S. Chopda, OSD Present.

**CORAM : G.S. KULKARNI &
ARIF S. DOCTOR, JJ.**

DATE : 8th JULY, 2025.

P.C:

1 We have passed a detailed order on 24th June 2025, in pursuance of which, respondent no.5 was to hand over possession of his tenement to the petitioner society and/or developer as directed, failing which, we directed that the Court Receiver, High Court, Bombay shall stand appointed. In accordance with our orders, respondent no.5 did not hand over the possession. Hence the Court Receiver visited the site with due notice to the parties. The Court Receiver was prevented from taking possession. The report of the Court Receiver dated 8th July 2025 No. 22 of 2025, is placed on record wherein the following directions are prayed for, in the context of what has been set out in paragraph 6. Paragraphs 6, 7 and 8 of the said report which read thus:

“6. It is respectfully submitted that on 07th July, 2025, the representatives of Court Receiver along with the Advocate Mr. Pravin Ghadi instructed by Advocate for Petitioner visited the aforesaid suit site at about 12.55 p.m. At suit site, the representatives of Petitioner Society and Architect arranged by Petitioner society, were present. Thereafter, they went to 2nd floor of 'B' Wing where Mr. Ghadi pointed out the suit Flat No.207. The Chairman, the Secretary and the Treasure of the society who were present, confirmed it. The door frame of the said flat was having no. 207 and name plate of 'Chandrakant Mohan Chandanshiv' was found on said suit flat. Upon ringing the doorbell, an individual identifying himself as Mr. Chandrakant Mohan Chandanshiv opened the door. He stated that he resides in the suit premises along with his wife and son. The representatives of the Court Receiver informed him the purpose of their visit, showed the Court's order, and requested him to hand over possession of the suit flat as per the said order of the Hon'ble Court. However, Mr. Chandanshiv refused to hand over the possession. Furthermore, he did not permit the representatives of the Court Receiver to enter the suit premises. As a result, the representatives were unable to execute the Court's order. Hereto annexed and marked Exhibit "E" is a copy of typed site report dated 07th July, 2025 submitted by the representatives of Court Receiver.

7. It is respectfully submitted that despite repeated requests, Respondent No. 5 refused to handover possession of suit flat and did not permit the representatives of Court Receiver to enter into suit flat. As a result, the representative of Court Receiver could not execute the Court's order. Therefore, directions in this regard are solicited.

8. In view of the above fact, the Court Receiver, High Court, Bombay is submitting the report seeking directions as under:

a) The Hon'ble Court may be pleased to pass necessary directions to take forcible possession of suit flat from Chandrakant Mohan Chandanshiv- Respondent No. 5 with the help of local police officials, including by breaking open the locks, if found locked and to hand over its possession on 'As is what is basis', 'As is where is basis' and 'Whatever there is basis' to the Petitioner Society or the to the Developer; et

b) If prayer (a) is in affirmative and if the Respondent No. 5 refuses or is not present or is unable to take away the articles, valuables, if any, from the suit flat, the Petitioner society may be directed to make necessary arrangements to shift and safeguard the inventoried belongings/articles/valuables, if any found at suit flat;

c) The Hon'ble Court may be pleased to direct the Petitioner Society and/or the Developer to make necessary arrangements, including appointing an expert or official, for the measurement of premises of Respondent No. 5 i.e. actual carpet area and any other area exclusively in Respondent No. 5 view before the building is demolished.

d) The cost of this report amounting to Rs. 5,000/- be awarded and allowed to deduct the same from suit account;

e) Any other directions of the Hon'ble Court which may deem fit, just and proper may be passed.”

2 In the aforesaid circumstances, we are of the opinion that the prayers as made by the Court Receiver are required to be granted and are accordingly granted in terms of prayer clauses (a) to (d) (supra). Ordered accordingly.

3 The Court Receiver now shall proceed to take further appropriate action with the help of the local police officials, which shall be provided by the Officer Incharge of the local police station; namely respondent no.3, and make a report to the court on the adjourned date of hearing. To enable the Court Receiver to do so, stand over to **22nd July 2025, High On board.**

4 Learned AGP for inform this order to the Officer Incharge of the local police station.

5 Parties to act on authenticated copy of this order.

[ARIF S. DOCTOR, J.]

[G.S. KULKARNI, J.]