

Sharayu Khot.

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

COURT RECEIVER'S REPORT NO. 88 OF 2024

WITH

COURT RECEIVER'S REPORT NO. 266 OF 2024

IN

INTERIM APPLICATION NO. 3110 OF 2021

IN

EXECUTION APPLICATION NO. 210 OF 2011

IN

SUIT NO. 3782 OF 1989

Hiroo Tuljaram Shahani

...Applicant/
Defendant No. 7

In the matter of

Ram Tuljaram Shahani & Ors.

...Plaintiffs

Versus

Bhagwan Tuljaram Shahani & Ors.

...Defendants

Mr. Omar Khaiyam Shaikh a/w Mr. Manohar Shelar for the
Applicant / Defendant No. 7.

Mr. Monil Punjabi i/by Mr. Rajesh Sahani for the Plaintiffs.

Mr. Niket Jani i/by Jani & Parikh for the Defendant Nos. 2, 3 and 6.

Mr. Mandar Soman a/w Mr. Ashok Varma for the Intervenor – Mr.
Vinit Jain.

Mr. Rajesh Singh, Offerer / Intending Purchaser present.

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

CORAM : R.I. CHAGLA J

DATE : 17 March 2025

ORDER :

1. By these Court Receiver's Reports, the Court Receiver had informed this Court that inspite of two attempts made at Court sale, no offers were received for the Flat No. 31, 3rd Floor, Shyam Niwas, Block No. 7 of the Shyam Co-operative Housing Society Limited, at C.S. No. 758 of Malabar and Cumballa Hill Division, situated at 51, Bhulabhai Desai Road, Mumbai 400 026 ("**the Suit flat**").

2. In the Court Receiver's Report No. 266 of 2024, the Court Receiver had sought direction with regard to the sale of the Suit flat as two offers were received, one from Dhiraj Vinod Jain, Manav Jain and Vinit Jain (Intervenors) who had given an offer of Rs. 4.21 Crores and the other from Defendant No. 7 who had given an offer of Rs. 4.22 Crores.

3. The learned Counsel for the Defendant No. 7 has referred to prior orders passed by this Court which includes the order dated 9th July 2024, by which this Court had considered the offer of

Defendant No. 7 of Rs. 4.22 Crores for purchasing the Suit flat. This Court had considered that the Valuer appointed by the Court Receiver had valued the Suit flat at Rs. 5.85 Crores. On that date, the learned Counsel for the Defendant No. 7 was given time to take instructions as to whether Defendant No. 7 would be willing to match the value arrived at by the valuer.

4. It is further pertinent to note that on the said date, the learned Counsel appearing for Dhiraj V. Jain, Manav Jain and Vinit Jain (Intervenors), informed this Court that the Intervenors are willing to offer a sum of Rs. 4.21 Crores for the Suit flat. Accordingly, time was also granted to the learned Counsel for the Intervenors to take instructions as to whether the Intervenors are willing to match the value arrived at by the valuer.

5. Thereafter, on 6th August 2024, the learned Counsel for the Intervenors informed this Court that his clients are not in a position to match the value arrived at by the Valuer as per the valuation report and sought leave of this Court to withdraw from the offer. Accordingly, the offer was allowed to be withdrawn. Thereafter, this Court on suggestion from the learned Counsel for the

Respondent No. 7 directed the Court Receiver to receive fresh offers till the next date, i.e. 30th September 2024.

6. The matter has come up today, when the Court Receiver informed this Court that there are no fresh offers, which have been received in respect of the sale of the Suit flat.

7. It is further pertinent to note that two attempts have been made for sale of the Suit flat by Court sale, but which have been unsuccessful. The consent decree was passed way back on 7th February 2008. The Execution Application was also filed on 2011. The Judgment-Creditor has not been able to taste the fruit of the decree.

8. The learned Counsel for the parties have also informed this Court that the value arrived at by the Court appointed Valuer is unrealistic, given the condition of the Suit flat and that Suit flat requiring renovation, as in its present condition, it is not habitable. The suit building is also built in the year 1950.

9. Considering that there are offers for the Suit flat and

though the offer made on behalf of the Intervenor was withdrawn, opportunity is given by this Court to better their offers. In addition, there is now an offer made for the Suit flat by Advocate Mr. Rajesh Singh, who is present in Court.

10. Considering that said Dhiraj V. Jain, Manav Jain and Vinit Jain (Intervenor) as well as Defendant No. 7 are not in position to better their offer, the offer of Mr. Singh being the highest offer for the Suit flat at Rs. 4.40 Crores requires to be accepted.

11. Accordingly, the offer of Advocate Mr. Rajesh Singh for the Suit flat at Rs. 4.40 Crores is accepted. He shall make payment of EMD of Rs. 10 Lakh within a period of 15 days from the date of this order. The balance of the purchase price, i.e. Rs. 4.30 Crores shall be paid within a period of 45 days thereafter.

12. Payment of EMD and the purchase consideration is permitted to be made through a private bank by Mr. Rajesh Singh.

13. Certificate of sale shall be issued subject to Mr. Rajesh Singh complying with the above terms of payment of purchase

consideration for the Suit flat.

14. Court Receiver shall execute the Deed of Conveyance of the Suit flat with Mr. Rajesh Singh within a period of 30 days after payment of purchase price of Rs. 4.40 Crores.

15. The execution of the Deed of Conveyance by the Court Receiver with Mr. Rajesh Singh shall be without the Original Title Deeds of the Suit flat, as they have been misplaced, as recorded in the order dated 22nd December 2022, and shall be on the basis of the duplicate share certificate, which is available and deposited with the Prothonotary & Senior Master of this Court.

16. Notice under Order XXI Rule 34 of the Civil Procedure Code, 1908 is dispensed with, in view of this order.

17. Costs of the Court Receiver's Report shall be deposited by Defendant No. 7 in the office of the Court Receiver within a period of one week from the date of this order.

18. The Plaintiff and the Defendant Nos. 1 to 7 shall

file an Affidavit furnishing an undertaking to this Court that there are no rights which have been created in respect of the Suit flat by deposit of the Original Title Deeds within a period of one week from the date of this order. This shall be reflected in the Deed of Conveyance of the Suit flat being executed by the Court Receiver with Mr. Rajesh Singh.

19. In the event, the purchase consideration of Rs. 4.40 Crores is paid, within the said period of 60 days from the date of this order, Mr. Rajesh Singh, who is the successful purchaser of the Suit flat, shall be put in possession of the Suit flat by the Court Receiver.

20. The Court Receiver shall be discharged upon execution of the Deed of Conveyance and till then Mr. Rajesh Singh shall be the agent of this Court.

21. Mr. Rajesh Singh shall pay the requisite TDS payable for the Suit flat and upon such payment, the Court Receiver shall refund the TDS amount from the sale consideration and upon issuance of sale certificate.

22. Court Receiver's Report No. 88 of 2024 and Court Receiver's Report No. 266 of 2024 are accordingly, disposed of.

23. In view of this order, Interim Application (L) No. 9498 of 2024 does not survive and is accordingly, disposed of.

24. Matter shall be placed for compliance on 11th June 2025.

[R.I. CHAGLA J.]