

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

COMMERCIAL SUIT NO.18 OF 2015

M/s. SICOM Investments and Finance Ltd)...Plaintiff
V/s.
M/s. Sarth India Limited and Others)...Defendants

WITH
COURT RECEIVER'S REPORT NO.536 OF 2024
IN
COMMERCIAL SUIT NO.18 OF 2015
WITH
NOTICE OF MOTION NO.266 OF 2017
IN
COMMERCIAL SUIT NO.18 OF 2015
WITH
COURT RECEIVER'S REPORT NO.2 OF 2021
IN
COMMERCIAL SUIT NO.18 OF 2015
WITH
NOTICE OF MOTION NO.44 OF 2016
IN
COMMERCIAL SUIT NO.32 OF 2015

Mr. Saurabh Utangale with Mr. Sarthak Utangale I/B Utangale & Co. for the Plaintiff in both Suits.

Ms. Padma Chinta i/b Mr. Harshad Sathe for the Defendants No. 1 and 2 in COMS 32/15.

Mr. N. C. Pawar, OSD, Court Receiver.

CORAM : ABHAY AHUJA, J.
DATE : 10th MARCH 2025

P.C. :

Commercial Suit No. 18 of 2015

1. Pursuant to the earlier orders of this Court, today when this matter is called out, Mr. Utangale, learned Counsel appears for the

Plaintiff and tenders across the bar affidavit dated 3rd March, 2025, submitting that the Court Receiver be discharged in respect of the office premises bearing Shop/Unit No.2, admeasuring 225 sq.mtrs on the 2nd Floor of the building known as Nexus Point on land bearing CTS No. 1689, Sheet No. 44, Nagpur Municipal Corporation House No. 18, Ward No. 66 at Palm Road, Civil Lines, Mouza Sitaburdi, Nagpur with all amenities, furniture and fixture (the “said property” / “office premises”) and the possession thereof be handed over to the Plaintiff.

2. The Court Receiver has also filed the Court Receiver’s Report No. 536 of 2024 for the following reliefs:-

“a) The Court Receiver, High Court, Bombay may be discharged without passing of accounts on payment of cost, charges and expenses as the Court Receiver could not sale the office premises bearing Shop/Unit No.2, admeasuring 225 sq.mtrs, 2nd Floor, Nexus Point, Commercial Complex, Sitaburdi, Nagpur because of non co-operation by the Plaintiff.

b) If the prayer (a) is affirmative then the Hon’ble Court may pleased to pass necessary order as to whom physical possession of office premises / Unit No.2 be handed over by the Court Receiver.

c) The Plaintiff may be directed to deposit an amount of Rs. 34,088/- towards the cost, charges and expenses of the court Receiver.

d) Cost of this report may be awarded to the sum of Rs. 5,000/-, Plaintiff may be directed to deposit the same in the office of Court Receiver.

e) any other directions as the Hon'ble High Court may deem fit in the matter.”

3. By order dated 8th January, 2019, passed by this Court (Coram: G. S. Patel, J. as His Lordship then was) in the Notice of Motion No. 226 of 2016, the Court Receiver, High Court Bombay was appointed in respect of the hypothecated and mortgaged properties more particularly described in the schedule to the Hypothecation Deed and Mortgage Deed with all powers to sell the mortgaged properties under Order XXXX Rule 1 of the Code of Civil Procedure, 1908 and for net sale proceeds thereof to be applied to the claim of the Plaintiff.

4. It is submitted in the Court Receiver's Report that thereafter an attempt was made to take possession of the three properties, however, in respect of the two properties the Court Receiver could not take possession for reasons stated in paragraph – 3 of the said report. As regards the third property viz. the property referred to above, the possession was taken on 9th April, 2019 from the representative of the Plaintiff and kept in lock and seal of the Court Receiver by affixing the possession board.

5. It has been submitted in the Court Receiver's Report that although valuation of the said office premises was conducted and the said property was to be put up for auction, however, since the Plaintiff did not co-operate in the finalisation of the draft notice and terms and conditions of the auction, the auction could not be published or conducted.

6. Mr. Pawar, learned OSD to the Court Receiver's officer present in Court submits that it is in view of the aforesaid that the Court Receiver is seeking the prayers in the Court Receiver's Report.

7. Since the Court Receiver has been appointed at the behest of the Plaintiff and taken possession of the said property, pursuant to the order dated 8th January, 2019 and now that the Plaintiff is desirous of going ahead with the Securitisation And Reconstruction Of Financial Assets And Enforcement Of Security Interest Act, 2002 (the "SARFAESI procedure") and even the Court Receiver has not been able to put up the subject property for auction as the Plaintiff had desired SARFAESI procedure, this Court is of the view that the Court Receiver's Report be allowed.

8. The Court Receiver, High Court Bombay is discharged without passing of the accounts of payments of costs, charges and expenses.

9. Let the Plaintiff deposit an amount of Rs. 34,088/- towards the cost, charges and expenses of the Court Receiver, with the Court Receiver within a period of two weeks. Let the cost of this Report of Rs. 5,000/- also be deposited in the office of the Court Receiver within the said period.

10. Subject to the above payments, the Court Receiver, High Court Bombay, to hand over physical possession of the said property to the authorised representative of the Plaintiff.

11. The Court Receiver's Report No. 536 of 2024 is accordingly disposed.

12. Mr. Pawar submits that the Court Receiver's Report No. 258 of 2021 will become infructuous in view of the disposal of this report.

13. Accordingly the said Court Receiver's Report No. 258 of 2021 is disposed of as infructuous.

Commercial Suit No. 32 of 2015

14. Mr. Utangale, learned Counsel for the Plaintiff and Ms. Chinta, learned Counsel for the Defendants No. 1 and 2 submit that the said Suit has already been transferred to the Bombay City Civil Court and the same may be removed from board.

15. Accordingly, remove from board.

(ABHAY AHUJA, J.)

NIKITA
YOGESH
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