

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

COURT RECEIVER'S REPORT NO. 539 OF 2024

IN

SUIT NO. 4913 OF 2000

Majid Ahmedbhai Oomerbhoy

...Plaintiff

Versus

Rashid Sattar Oomerbhoy & Ors.

...Defendants

- Mr. Kirti Munshi, Senior Counsel a/w Mr. Ganesh Ambekar i/b Jariwala Associates, for the Plaintiff.
- Mr. Dev Tejnani i/b Mr. Aniesh Jadhav, for Defendant No.2.
- Mr. Neil Dutta i/b Wadia Ghandy & Co., for the Defendant Nos.4(b)(i) to 4(b)(iv).
- Ms. Charushila Vaidya, 2nd Assistant to Court Receiver.

CORAM : MANISH PITALE, J.

DATE : 11th FEBRUARY, 2025.

P. C. :

1. The present Court Receiver's Report is listed today as per order dated 13th January, 2025. By the said order, this Court granted directions as per clauses (a) and (b) of paragraph No.12 of the Court Receiver's Report No.529 of 2024. The effect of the directions being granted was that defendant Nos.1(a) and 1(b) were required to clear outstanding bills of maintenance in respect of Flat No.2 at Hira Hilla CHS Ltd., Bandra, to the concerned Society, wherein the said flat is located, within three weeks from the date of the order. The said defendants were required to make the payment directly to the Society and to produce receipt before the Court Receiver. They

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were also required to furnish an undertaking in terms of prayer clause (b) also within a period of three weeks.

2. Today, there is no appearance on behalf of defendant Nos.1(a) and 1(b). There is also nothing to show that the said defendants have complied with the specific direction issued in paragraph No.6 of the order dated 13th January, 2025. It is confirmed to this Court that the said defendant Nos.1(a) and 1(b) have not produced receipt before the Court Receiver as regards payment having been made in terms of the said direction and there is also nothing to show that an undertaking as indicated hereinabove has been furnished by the said defendants. It is clear that defendant Nos.1(a) and 1(b) have not complied with the specific directions issued in the order dated 13th January, 2025.

3. In this backdrop, Mr. Munshi, learned senior counsel appearing for the plaintiff submits that the aforesaid defendants have repeatedly indulged in such conduct by violating, with impunity, directions issued by this Court. It is submitted that undertakings given earlier to this Court were also violated and therefore, this Court may take a strict view in the matter. It is submitted that such contumacious conduct can lead to appropriate orders being passed against defendant Nos.1(a) and 1(b) for being hauled up for contempt, but according to the learned senior counsel appearing for the

plaintiff, this Court may consider issuing a direction that defendant Nos.1 (a) and 1(b) shall not be heard in the present suit and all connected suits till they show compliance with the aforesaid directions of this Court.

4. In support of the said submissions, he places reliance of judgment of the Court of Appeal at England in the case of **Hadkinson v. Hadkinson**¹ and judgment in the case of **Pravin C. Shah Vs. K.A. Mohd. Ali & Another**².

5. As noted hereinabove, there is no appearance on behalf of defendant Nos.1 (a) and 1(b), despite the fact that when the order dated 13th January, 2025 was passed, they were represented by an advocate.

6. The relevant portion of the order dated 13th January, 2025, reads as follows :

“5. In view of the above, the directions sought at clauses (a) and (b) of paragraph No.12 of the Court Receiver’s Report No.539 of 2024, quoted hereinabove, are granted.

6. Accordingly, within three weeks from today, defendant Nos.1(a) and 1(b) shall clear the outstanding bills of maintenance in respect of the aforesaid flat by making payment directly to the society and produce its receipt before the Receiver. They shall also furnish an undertaking in terms of prayer clause (b) above within the aforesaid period of three weeks.

1 (1952) 2 ALL ER 567

2 (2001) 8 SCC 650

7. *As regards the other directions sought in the aforesaid Court Receiver's Report, list for further consideration on 11.02.2025, High on Board."*

7. As noted hereinabove, the Court Receiver's Office has not received any receipt from defendant Nos.1 (a) and 1 (b) to show that they paid the outstanding bills of maintenance to the said Society in compliance with the abovequoted direction issued in the order dated 13th January, 2025. The aforesaid conduct of non-compliance of the said defendants, is in the backdrop of non-compliance of an earlier statement made on their behalf, as recorded in the order dated 10th August, 2023, passed by this Courts in Court Receiver's Report No.267 of 2023. Thus, it is evident that the said defendants have voluntarily repeatedly violated the undertakings given to this Court and also a positive direction issued against them, including the above quoted direction contained in the order dated 13th January, 2025.

8. In such circumstances, while defendant Nos.1 (a) and 1 (b) can be proceeded against under Contempt jurisdiction, this Court finds substance in the contention raised on behalf of the plaintiff that apart from exercising the option of initiating Contempt proceedings against the said defendants, this Court can issue appropriate directions to the effect that they shall not be heard further in this suit and all connected proceedings till such time that they show compliance with the aforesaid direction contained in the order dated 13th

January, 2025.

9. A perusal of the judgment of the Supreme Court in the case of **Pravin C. Shah Vs. K.A. Mohd. Ali & Another (supra)**, shows that the Supreme Court relied upon the position of law clarified in this regard by the Court of Appeal of England in the case of **Hadkinson v. Hadkinson (supra)**. After quoting the relevant portion of the said judgment of the Court of Appeal of England, the Supreme Court specifically observed that such observations can apply to the Courts in India without any doubt. The relevant portion of the judgment of the Court of Appeal of England in the case of **Hadkinson v. Hadkinson (supra)** would show that the Court is empowered to issue a direction that a party which violates orders of the Court with impunity can be prevented from being heard in proceedings before the Court in future, till such time that the party purges the Contempt by showing obedience with directions of the Court.

10. In the facts and circumstances of the present case, considering the conduct of defendant Nos.1 (a) and 1 (b), whereby they have violated voluntary undertakings given to this Court and now they have voluntarily disobeyed the positive direction issued in the order dated 13th January, 2025, this Court is inclined to follow the aforesaid course of action.

11. In view of the above, it is directed that till such time that

defendant Nos.1 (a) and 1 (b) show compliance with the abovequoted direction issued by this Court in the order dated 13th January, 2025, passed in Court Receiver's Report No.539 of 2024, they shall not be heard in the present suit i.e. Suit No.4913 of 2000 and connected Suits i.e. Suit Nos.2539 of 2009, 2955 of 2009 and 548 of 2012, and also in the interlocutory applications and proceedings arising out of the aforesaid Suits.

12. Ordered accordingly.

13. List for further directions on **12th March, 2025**, along with Contempt Petition No.78 of 2018 on the next date of listing.

(MANISH PITALE, J.)