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

**APPEAL (L) NO.6140 OF 2024
WITH
INTERIM APPLICATION NO.822 OF 2024**

WITH

**APPEAL (L) NO.6150 OF 2024
WITH
INTERIM APPLICATION NO.823 OF 2024**

Meena Vijay Mehta

.. Appellant

Versus

Sharat Menon & Ors.

.. Respondents

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Mr. Amrut Joshi a/w Adv. Vineet Jagtap i/b. Adv. Niranjana Jagtap and Co., Advocate for the Appellant

Mr. Mayur Khandeparkar a/w Ms. Chaitrika Patki and Ms. Apurva Sanglikar i/b. Vidhi Partners, Advocate for the Respondent No. 1

Mr. Amol Sharma (Through V.C.), Advocate for the Respondent No. 6, ICICI Bank Ltd.

Ms. Gulnar Mistry a/w Ms. Deepanjali Mishra i/b. M/s. Hudda and Associates, Advocate for the Respondent Nos. 8 and 9

Mr. S. K. Dhekale, Court Receiver present

Mr. N. C. Pawar, Officer on Special Duty, Court Receiver present

**CORAM: B. P. COLABAWALLA &
FIRDOSH P. POONIWALLA, JJ.**
DATE: MARCH 6, 2025

P. C.

1. Appeal (L) No.6140 of 2024 is filed by the Appellant – *Meena Vijay Mehta* (original Defendant No.1) challenging the Order dated 10th October 2023. By this Order, the learned single Judge of this Court granted interim relief in the Administration Suit filed by the Executors (i.e. Respondent No.1 – original Plaintiffs) of the last Will and Testament dated 28th March 2002 (for short the “**said Will**”) of one Mr. Gopal Menon (for short the “**Deceased**”). One of the interim reliefs granted was the appointment of a Court Receiver of the entire estate of the Deceased with directions to take custody of the assets of the Deceased lying with or in possession of original Defendant No.1 (the Appellant), and to preserve the entire estate of the Deceased for the beneficiaries under the said Will dated 28th March 2022. One of the assets belonging to the estate of the Deceased was *Flat No.3B, Jharna Malay Niketan, 31, Union Park, Chembur, Mumbai 400 071* (for short “**Flat 3B**”). According to the original Plaintiff, *Flat 3B* is bequeathed to the daughters of the deceased from his first wife. Hence, the

Appellant (original Defendant No.1) was appointed as the agent of the Court Receiver.

2. As far as the Order impugned in Appeal (L) No.6140 of 2024 is concerned (i.e. dated 10th October 2023), the learned Advocate appearing on behalf of the Appellant, on instructions, stated that the Appellant does not have any objection to the appointment of the Receiver of the assets belonging to the deceased [including *Flat 3B*]. He, therefore, sought leave to withdraw the above Appeal.

3. As far as Appeal (L) No.6150 of 2024 is concerned, the said Appeal challenges the Order dated 10th November 2023 passed by the learned single Judge of this Court. By this Order, original Defendant No.1 (the Appellant) was appointed as an agent of the Court Receiver in terms of the Order dated 10th October 2023, subject to the usual terms and conditions with respect to royalty and security, to be determined by the Receiver. Pursuant to this Order, the Receiver has fixed the Royalty @ Rs.69,000/- per month and also directed the Appellant (original Defendant No.1) to furnish a security deposit of Rs.2,07,000/- (i.e. 3 months Royalty). Though the Appellant does not have a grievance to the appointment of the Receiver, the grievance of the Appellant is with reference to the royalty and security fixed

by the Receiver. According to the Appellant, no royalty or security ought to be fixed because the Appellant was admittedly the legally wedded wife of the deceased, and therefore, would be entitled to continue to use and occupy *Flat 3B*. One of the reasons, amongst other things, is that *Flat 3B* was her “matrimonial home” / “shared household”. This is the narrow controversy in Appeal (L) No.6150 of 2024. In this Appeal, there is also an application for condonation of delay being Interim Application No.823 of 2024. The delay is of 72 days. We formally condone this delay and dispose of Interim Application No.823 of 2024.

4. As far as Appeal (L) No.6150 of 2024 is concerned (challenging the Order dated 10th November 2023), we put it to the learned counsel appearing on behalf of the Appellant that it would be more prudent if an Application is first made to the learned single Judge challenging the quantum of royalty and security fixed by the Court Receiver, and to re-determine the quantum, if any, that would be payable by the Appellant for occupying *Flat 3B*, as the agent of the Court Receiver.

5. When we put this to the learned counsel, he fairly stated that the above Appeal can be disposed of by permitting the Appellant to file an appropriate Application before the learned single Judge challenging the

quantum of royalty and security determined by the Court Receiver. He submitted that he would file this Application within a period of five weeks from today and he would canvass all his contentions before the learned single Judge.

6. In answer to this, Mr. Khandeparkar, the learned counsel appearing on behalf of Respondent No.1 [the original Plaintiff], as well as Ms. Gulnar Mistry, the learned Advocate appearing on behalf of Respondent Nos.8 and 9 (the daughters of the Deceased – original Defendant Nos.8 & 9), submitted that the Order of the Court Receiver determining the royalty as well as payment of security has not been complied with till date. The arrears or royalty and security are approximately Rs.12.00 lacs. In these circumstances, both the counsel submitted that the Appellant ought to be directed to pay some ad-hoc amount towards royalty and security, before the learned single Judge is asked to entertain the Application proposed to be filed by the Appellant [challenging the quantum of royalty and security fixed by the Receiver]. They further submitted that the Appellant also ought to be directed to pay all society outgoings and property taxes of *Flat 3B*, which, till date have not been cleared, and continue to do so until the Appellant is occupying *Flat 3B* as an agent of the Court Receiver.

7. The learned Advocate appearing on behalf of the Appellant, on taking instructions, stated that all society outgoings and property taxes in relation to *Flat 3B* shall be cleared by the Appellant within a period of 4 weeks from today. He further stated that all future society outgoings and property taxes shall be paid on time till the Appellant occupies *Flat 3B* as an agent of the Court Receiver. We accept these statements as undertakings given to the Court.

8. As far as the amount of ad-hoc royalty and security is concerned, the learned Advocate for the Appellant, on taking instructions, fairly stated that whatever figure this Court decides as ad-hoc royalty and security, the Appellant would deposit with the Court Receiver within a period of four weeks from today. He was however quick to clarify that this should not be construed to mean that the Appellant is precluded from arguing before the learned single Judge that no royalty or security ought to be fixed in the peculiar facts and circumstances of the present case.

9. Having heard all parties on all these aspects, we dispose of both the above Appeals by passing the following order:

- (a) Appeal (L) No.6140 of 2024 is dismissed as withdrawn. However, there shall be no order as to costs. In light of withdrawal of Appeal (L) No.6140 of 2024, nothing survives in the Interim Application No.822 of 2024 and same is disposed of accordingly.
- (b) As far as Appeal (L) No.6150 of 2024 is concerned, we direct that the Appellant shall, as an ad-hoc arrangement, pay a sum of Rs.4,00,000/- towards royalty and security for occupying *Flat 3B* as the agent of the Court Receiver. This payment shall be made to the Receiver within a period of four weeks from today.
- (c) In addition to the aforesaid amount, the Appellant shall also clear all the society outgoings as well as property taxes etc. in relation to *Flat 3B* within a period of four weeks from today. Further, as per the statement made on behalf of the Appellant, all future society outgoings and property taxes etc shall also be paid on time till the Appellant occupies *Flat 3B* as an agent of the Court Receiver.

- (d) Once the payments referred to in (b) and (c) above are made, the Appellant shall make an Application to the learned single Judge for varying the quantum of royalty and security deposit determined by the Receiver. Such an Application shall be filed within one week of making payment of Rs.4,00,000/- to the Receiver [towards ad-hoc royalty and security], as well as clearing the society outgoings and property taxes etc. [till date], in relation to *Flat 3B*.
- (e) The proof of payment of the society outgoings as well as payment of ad-hoc royalty to the Receiver shall be furnished to the learned single Judge along with the Application proposed to be filed by the Appellant seeking a variation of the amount of royalty and security determined by the Receiver. If these amounts are not paid, the learned single Judge shall dismiss the Application filed by the Appellant, the consequence of which will be that the Order of Receiver fixing the

royalty @ Rs.69,000/- per month and security deposit of Rs.2,07,000/- shall stand.

(f) Appeal (L) No.6150 of 2024 is accordingly disposed of in the aforesaid terms. No order as to costs.

10. It is needless to clarify that the figure of Rs.4,00,000/- fixed by us is only an ad-hoc arrangement, and the learned single Judge shall decide the Application of the Appellant on its own merits uninfluenced by the figure fixed by us today. In other words, when the learned single Judge finally decides the Application, he is free to increase this amount, or reduce this amount, or even come to the conclusion that no amount is payable. If the learned single judge decides any quantum of royalty and/or security, he is also free to decide whether future society outgoings and taxes etc ought to be paid by the Appellant or whether the same should be paid from the royalty fixed. However, till the Application is decided by the learned single judge, the Appellant shall continue to pay all the society outgoings and taxes etc., as per the statement recorded above.

11. We are informed that the Suit itself has been wrongly transferred to the Hon'ble City Civil Court at Bombay. The contesting parties have stated

before us that they will jointly apply for having the Suit transferred back to this Court. We have noted the said statement of the contesting parties, namely, the original Plaintiff, original Defendant No.1 and Original Defendant Nos.8 and 9 that they will jointly apply to have the above Suit transferred back to this Court.

12. This order will be digitally signed by the Private Secretary/ Personal Assistant of this Court. All concerned will act on production by fax or email of a digitally signed copy of this order.

[FIRDOSH P. POONIWALLA, J.]

[B. P. COLABAWALLA, J.]