

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

**INTERIM APPLICATION NO. 2459 OF 2025
IN
SUIT NO. 2606 OF 2010**

**SBI GLOBAL FACTORS LIMITED)...APPLICANT
IN THE MATTER BETWEEN
SBI GLOBAL FACTORS LIMITED)...PLAINTIFF**

V/s.

M/S.MINAXI WEAVING MILLS PVT. LTD. & ORS.)...RESPONDENTS

Mr.Chirgag Balsara a/w. Mr.Dhaval Patil i/by M/s.K. Ashar & Co., for
the Applicant.

Mr.Omkar Kanegaonkar i/by Mr.Nhal Lakhan, Advocate for the
Respondent no.5.

CORAM : ABHAY AHUJA, J.

DATE : 21st JULY 2025

P.C. :

1. This Interim Application seeks forcible possession of the following two properties – (1) Unit Nos.1 to 12, admeasuring 976.74 square metres bearing Survey Nos.13 + 14 + 63/2, N.A. Plot No.11-B, admeasuring 2535 square yards equivalent to 2,119.26 square metres, situate at Revenue village, Sativali within the jurisdiction of Sativali Gram Panchayat which forms part of the Panchayat Samiti Vasai Zilla

Parishad, Palghar District (Formerly Thane District) and (2) PHF 13th Floor, White Water-1, Pandit Karapan Road, Shanti Nagar, Thevera, Cochin, Kerala, collectively referred to as the “subject properties”.

2. When the matter is called out, Mr.Omkar Kanegaonkar, learned Counsel, appears for the Respondent no.5 and submits that some time be granted to file reply in the matter.

3. Thereafter, when this Court was granting time to the Respondent no.5 to file reply, Mr.Balsara, learned Counsel appearing for the Applicant draws the attention of this Court to the order dated 3rd February 2025 (Coram : R.I. Chagla, J.) and submits that the Advocate for the Respondent no.5 had appeared and had also waived service. Since the Advocate for the Respondent no.5 had undertaken to file Vakalatnama and was directed to file Affidavit-in-reply to the Interim Application within three weeks, the Interim Application was directed to be listed on 10th March 2025. Mr.Balsara submits that it is the same Advocate on record who had appeared on the last date, however, that thereafter, the matter has been listed only today.

4. Mr.Balsara, learned Counsel, has drawn this Court's attention to Site report dated 7th August 2024 of the representative of the Office of the Court Receiver with respect to the Vasai property and in particular paragraph 6 which clearly indicates that the possession board of the Court Receiver was not available on the Suit premises. That, a person who claimed to be production in-charge of the said premises namely G.H.C.L. (Khuspal Hometextile LLP), 11-B, Nirav, Opp. Neminath Industrial Complex, Sativali, Vasai (E), Palghar – 401 208 was present there. It is stated that the symbolic possession of the said property was taken on 8th October 2013 and a board of the Court Receiver was affixed. However, on 6th August 2024, the said board was not found on the Suit premises. Mr.Balsara has also taken this Court through the Site report dated 26th August 2024 in respect of the Ernakulum property and draws this Court's attention to paragraphs 7 and 8 which indicate that the board of the Court Receiver to the Suit flat PHF, 13th floor, White Water-1, was not there. It is stated therein that one Ms.Shruti Francis informed that she stays with her husband Mr.Francis Thomas in the said flat since last two years. She also informed that they were family friend of the Respondent no.5 and they only pay electricity charges and society charges and not any occupation charges or rent.

That, the board of the Court Receiver, High Court, Bombay was put up on 11th October 2013.

5. Mr.Balsara submits that outstanding dues have not been paid and it was pursuant to order dated 15th June 2011 that the Court Receiver was permitted to take possession of the two properties and the Defendants were also restrained from in any manner selling, disposing of, alienating, encumbering, creating third party rights and / or parting with possession of the immovable properties described in Exhibits-DD and Exhibit-X to the plaint, which two properties are the subject matter of this application.

6. It is submitted that since possession could not be taken, a Judge's order was taken out and by Judge's order dated 17th June 2013, this Court had directed that symbolic possession of the subject properties be taken.

7. Mr.Balsara submits that, therefore, this Court may allow this application in terms of prayer clauses (a) and (b) for the time being, after which, this Court can consider prayer clauses (c) and (d).

8. Mr.Kanegaonkar, learned Counsel, appearing for the Respondent no.5 submits that he has no instructions except to say that no third party rights have been created.

9. Despite a mandatory directive of the Court to file reply within a period of three weeks by order dated 3rd February 2025, no reply has been filed on behalf of the Respondent No.5 and today time is being sought once again. There is no iota of doubt that the symbolic possession of the Court Receiver has been interfered with by the removal of the board of the Court Receiver put up on the subject properties. Accordingly, having heard the learned Counsel and having considered the submissions, I have no doubt in my mind that prayer clauses (a) and (b) ought to be granted in the facts and circumstances of the case.

10. The application is for the time being allowed in terms of prayer clauses (a) and (b) which read thus :

“(a) That directions be given to the Ld. Court Receiver, Bombay High Court to take the physical possession of the immovable properties situated at Unit Nos.1 to 12, total area of the building admeasuring 976.74 square metres constructed thereon, bearing Survey Nos. 13 + 14 + 63/2, N. A. plot No.11-B, admeasuring 2535 square yards, equivalent

to 2,119.26 square metres, situate at Revenue village, Sativali within the jurisdiction of Sativali Gram Panchayat which forms part of the Panchayat Samiti Vasai Zilla Parishad, Thane Taluka and within the confines of Vasai District as describe at Exhibit – “X” to the plaint and PHF 13th floor, White Water – 1, Pandit Karapan Road, Shanti Nagar, Thevera, Cochin as described at Exhibit – “DD” to the plaint.

(b) In case the Defendants no.2 to 6 or occupant opposes the Ld. Court Receiver from taking possession of the properties described at Exhibit – “X” and Exhibit – “DD” to the plaint, then the Ld. Court Receiver, Bombay High Court be pleased to direct to take the forcible possession of the properties described at Exhibit – “X” and Exhibit – “DD” to the plaint with the assistance of the local police.”

11. Let possession be taken by the next date and an appropriate report be placed by the Court Receiver before this Court. Costs, expenses and charges to be borne by the Applicant.

12. All to act on an authenticated copy of this order duly authenticated by the learned Associate of this Court.

13. List on **18th August 2025**, when this Court will consider prayer clauses (c) and (d).

(ABHAY AHUJA, J.)