

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

COURT RECEIVER REPORT NO. 20 OF 2023
IN
FIRST APPEAL NO. 2285 OF 2007

Smt. Ramdulari Wd/o Sitla Prasad ...Appellants
Tiwari and Ors.

Versus

Ramprasad Brijbhukam Tiwari D/H.
Moniram Ramprasad Tiwari and Ors. ...Respondents

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None for the Appellant.

Mr. Ankit Tiwari i/b K.P. Tiwari & Co. for Respondent No.1.

Ms. Pratibha Shelake for the Respondent Nos. 1A(a) to (c).

Mr. Omkar Mayekar a/w Disha Chourasia for the
Applicant/intervenor in IA(ST) No. 23519/2023.

Mr. Mohit Jadhav for the Applicants/intervenors in CAF/218/2019.

Mr. D.M.Patil, Section Officer, Court Receiver present.

CORAM : M.M.SATHAYE J.
DATE : 14th DECEMBER 2023

PC. :

1. This Court Receiver report is filed seeking following directions:

“a) The Court Receiver may be discharged without passing account as Plaintiffs as well as the tenants/occupants are not co-operating the Court Receiver to comply the order of the Hon’ble Court.

If prayer (a) is affirmative, then

(b) The Hon’ble Court may pass an order that symbolic possession of the Court Receiver over the suit property comes to an end.

(c) The Hon’ble Court may pass necessary order to

whom physical possession of rooms no.A-18, A-28, B-36, B-23 be handed over.

(d) The Hon'ble Court may direct the parties to deposit cost charges and expenses of the Court Receiver in the office of the Court Receiver.

If prayer (a) is negative, then

(e) The Hon'ble Court may fix rent/compensation for the Residential and Commercial premises of the suit property and Appellant No.4 and Respondent No.1(A) be directed to collect the same and to deposit in the office of the Court Receiver.”

2. None present for the Appellants. Heard Mr. Patil, Section Officer of the Court Receiver Office. Heard Ms. Shelke, learned counsel for the Respondent Nos. 1A(a) to 1A(c). Heard learned counsel for the Applicants in IA(ST) No. 23519/2023 and learned counsel for the Applicants in CAF No. 218/2019.

3. Perusal of the various orders annexed to the Court Receiver Report shows that under the last order dated 22.04.2022 (Coram : Sandeep K. Shinde J), shows that Court Receiver was directed to execute Rent Collector Agreement and appoint Mr. Hitesh Maniram Tiwari (Respondent No. 1A(b) in the Appeal) to collect the compensation from the occupants and rent from the ledgerised tenants in terms of minutes of order dated 09.09.2019 and deposit the same with the Court Receiver in the account of suit property maintained by the Court Receiver.

4. Perusal of paragraphs 20 to 27 shows that efforts of the Court

Receiver as well as the person appointed as Rent Collector to convene meetings of occupants of the subject matter chawls or collect rent/compensation etc in the suit property, have failed for one reason or the other. This Court is refraining from recording reasons stated across the bar, for this situation. From the averments in paragraph 26 of the present Court Receiver Report, it appears that tricks are being played and efforts are underway to somehow thwart the process of law to take its course.

5. It also appears that the occupants of the chawls on the suit property are not agreeing for collection of rent through the machinery of the Court Receiver and the Rent Collector appointed under orders of the Court. Such situation cannot be countenanced under law.

6. The Court is informed that up to 2015, the rent was being collected by 'Rent Farming Contractor' who was appointed from the Panel of the Court Receiver Office and till that time, the rents were regularly collected. In this respect, it is stated in the Court Receiver Report (paragraph 11) that under earlier Order dated 11.12.2013 one Rent Farming Contractor had collected rent from tenants / occupants and had deposited the same with the office of the Court Receiver. There is report on record to that effect.

7. It is a common ground before the Court that pursuant to the last order dated 22.04.2022, the rent collector appointed (Mr. Hitesh Maniram Tiwari) has not been able to collect rent/compensation

from the occupants of the suit property.

8. In the totality of aforesaid facts and circumstances, this Court finds it fit, to order convening of a meeting for appointment of the 'Rent Farming Contractor' again, from the panel of the Court Receiver office. The meeting is fixed on 08.01.2024. The office of the Court Receiver is directed to convene such meeting by following due process of law including issuance of notices etc. and submit further report on or before 15.01.2024.

9. Since this order is passed in the presence of learned counsel Mr. Mohit Jadhav for the Applicants/intervenors in Civil Application No. 218 of 2019, he is directed to give notice of the meeting fixed by this Court on 08.01.2024 to all the Applicants/ intervenors in Civil Application No. 218 of 2019.

10. Stand over to 15.01.2024 for further orders.

11. All the parties to act on duly authenticated/digitally signed copy of this order.

[M.M.SATHAYE,J.]