

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

**INTERIM APPLICATION (L) NO.15085 OF 2021  
IN  
CONTEMPT PETITION NO. 3 OF 2019**

**Raksha Kiit Gosher**

**...Applicant**

**Vs.**

**The Official Liquidator of Woodland Garde Cafe and Ors....Respondents**

**WITH  
INTERIM APPLICATION (L) NO. 1615 OF 2023  
IN  
COMPANY PETITION NO. 352 OF 1996  
WITH  
INTERIM APPLICATION (L) NO. 4540 OF 2021  
IN  
COMPANY APPLICATION NO. 453 OF 2017  
WITH  
INTERIM APPLICATION (L) NO. 15085 OF 2021  
IN  
CONTEMPT PETITION NO. 3 OF 2019  
WITH  
COMPANY APPLICATION NO. 453 OF 2017  
IN  
OFFICIAL LIQUIDATOR'S REPORT NO. 21 OF 2016  
WITH  
CONTEMPT PETITION NO.3 OF 2019  
IN  
COMPANY APPLICATION NO. 453 OF 2017  
IN  
REVIEW PETITION (L) NO. 7 OF 2019  
IN  
COMPANY APPLICATION NO. 453 OF 2017  
WITH  
INTERIM APPLICATION (L) NO. 4540 OF 2021  
IN  
COMPANY APPLICATION NO. 453 OF 2017  
WITH  
INTERIM APPLICATION (L) NO. 3710 OF 2022  
IN  
COMPANY APPLICATION NO. 453 OF 2017**

**WITH  
INTERIM APPLICATION (L) NO. 6320 OF 2024  
IN  
COMPANY PETITION NO. 352 OF 1996**

Mr. Rashid Khan with Mr. Saurabh Wardhan i/b Vivek Phadke for Applicant in IAL 15085/21, IAL 4540/21 and for Petitioner in CNCP 3/19.

Mr. Pritesh Burad with Ms. Samita Vaviya and Mr. Shreyas Moharir i/b Mr. Pritesh Burad Associates for Applicant in IAL 3710/22, for Respondent No. 10 in IAL 15085/21 with CNCP 3/19.

Mr. Naushad Engineer with Mr. Bansal for Official Liquidator.

Mr. Chandan Kumar, Official Liquidator present.

Mr. Malcolm Siganporia with Mr. Dharmesh Pandya i/b Pandya's Law Era for Applicant in IAL 6320/24, IAL 1283/24 in CP 352-96.

Mrs. Vaishali Bhilare for Respondent No.2-Indian Bank.

Ms. Vandita Singh h/f Mr. Satyadev Joshi and Mr. Sudhant for Interventor Applicant-FINKS.

**CORAM       :       ABHAY AHUJA, J.  
DATE         :       26<sup>th</sup> JULY, 2024**

**PC. :**

1. Pursuant to the earlier orders of this Court, today when the matter is called out, Mr. Engineer, learned Counsel appearing for the Official Liquidator submits that the Official Liquidator's Report has been prepared in respect of M/s. Woodlands Garden Cafe (In Liquidation) situated at Nalanda Shopping Centre, Vaikunthlal Mehta Road, JVPD Scheme, Vile Parle (West), Mumbai – 400019 (the "said property/subject property") and copies have also been furnished by e-mail to the others. The said Official Liquidator's Report seeks the following directions:-

“a) This Hon’ble Court may be pleased to direct Ms/ Woodland Garden Care (the so-called registered firm) to handover vacant and peaceful physical possession of the said Property to the Official Liquidator;

b) This Hon’ble Court may be pleased to direct Ms/Woodland Garden Care (the so-called registered firm) and its partners to disclose all monies received by them from third parties towards license fee / rent/ conducting fee / any other amount pertaining to the said Property and the Income Tax Returns filed by them from FY 2016-17 till date;

c) This Hon’ble Court may be pleased to direct Ms/ Fink and its partners and M/s Burnt Crest Hospitality Private Limited to disclose all monies paid by them towards licence fee / rent / conducting fee / any other amount pertaining to the said Property to M/s Woodlands Garden Cafe and the Income Tax Returns filed by them from FY 2016-17 till date.

d) This Hon’ble Court may be pleased to permit the Official Liquidator to give the said property on leave and license basis to third parties.”

2. Learned Counsel appearing for the other parties seek time to file response to the Official Liquidator’s Report. Registry to accept the Official Liquidator’s Report.

3. Let the response be filed by 9<sup>th</sup> August, 2024, with copies to the other side. Rejoinder, if any, by 16<sup>th</sup> August, 2024, with copies to the other side. List on **23<sup>rd</sup> August, 2024.**

4. Soon after the above order is passed, Mr. Burad, learned Counsel appearing for the Respondent No.10 informs the Court that the sister of the Applicant in Interim Application (L) No. 6320 of 2024, which Applicant is seeking leave under Section 446 of the Companies Act, 1956, has along with others in Suit No. 190 of 2022 has obtained orders appointing Court Commissioner in respect of the larger property, which includes the said property in respect whereof the Official Liquidator has also submitted report after site inspection and refers to order dated 2<sup>nd</sup> July, 2024 passed by the Court (Coram : Arif S. Doctor, J.) in the said suit. The said order is usefully quoted as under :

“1. Today, Mr. Raheja, Learned Counsel appearing on behalf of the Applicants submits that as per the previous order, by which, a Commissioner was appointed to visit and ascertain the status of the property in question, he would require extension of time of two weeks.

2. At this stage, Mr. Burad Learned Counsel appearing on behalf of Defendant Nos.10 to 13 has raised an objection that the present Suit cannot proceed since winding up proceedings are undergoing against Defendant No.10.

3. Mr. Raheja clarifies that Defendant No.10, who has been arrayed as a Defendant to this Suit is a registered partnership firm and not a company. The entity to whom Learned Counsel alludes is a separate and distinct entity.

4. Be that as it may, on the last occasion when this order was passed, counsel for Defendant No.10 was present. None of these contentions were taken. In any view of the matter all that presently being done is for a Commissioner to visit the said premises and ascertain the status of the same. If any parties aggrieved by such order, it is open to them to take recourse as

available in law including taking out an appropriate application before this Court.

5. Mr. Raheja also points out that in the last order, the same makes it explicit that an order of appointment of Commissioner is without prejudice to all rights and contentions of all parties.

6. Stand over to 30th July, 2024. List the present matter along with Interim Application (L) No.6222 of 2023 filed by Defendant No.1 and Interim Application No.6421 of 2023 filed by Defendant No.10.

7. All replies/rejoinders to be filed on or before 16th July, 2024.”

5. Mr. Burad also points out that there is an other Suit No. 2865 of 1994, which is also relating to the larger property which is also pending.

6. In view of the above, in order to avoid multiplicity of proceedings involving the premises in question before this Court including the said property, let appropriate steps be taken by the Learned Prothonotary and Senior Master to place a submission before the Hon'ble The Chief Justice, so that all the matters involving the said property as well as the larger property are heard by one Judge in order to avoid diverse orders by different Courts in respect of the property in question.

7. Let the complete facts in the matter be placed before this Court by the next date.

8. In the meanwhile, as directed earlier, until further orders, parties are directed not to in any manner, whatsoever deal with or dispose of the said property nor create any third party rights including by the way of lease, license or conducting agreement or by way of creating any other encumbrance.

**(ABHAY AHUJA, J.)**