

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

**INTERIM APPLICATION (LODGING) NO. 13514 OF 2023  
IN  
EXECUTION APPLICATION (LODGING) NO. 70 OF 1998**

Meena Vijay Khetan & Anr.

...Applicants

**Versus**

Olumpus Superstructure Pvt. Ltd. & Anr.

...Respondents

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- Mr. Deepak Y. Chitnis and Mr. Lehan Ghojaria i/by M/s. Chitnis Vaithy & Co., for Applicants.

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**CORAM : MANISH PITALE, J.**

**DATE : 05<sup>th</sup> JULY, 2023.**

**P. C. :**

1. Heard, learned Counsel for the Applicants.
2. This Court is informed that the present execution proceedings were initiated to execute an arbitral award, which stood confirmed right up to the Supreme Court. It is brought to the notice of this Court that the Court Receiver had been appointed in respect of the two flats in question, but unfortunately the execution application itself was dismissed due to non removal of office objections. It is submitted that thereafter the execution application was restored and the Court Receiver was not specifically discharged at any point in time.
3. It is submitted that the Award Debtor is today in the process of liquidation and the Liquidator was served with the papers

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pertaining to the present application.

4. By the interim application, the Applicants are seeking appointment/continuation of the Court Receiver on the flats in question and further directions are sought. It is submitted that the arbitral award was passed in favour of the Applicants, as far back as on 13<sup>th</sup> November, 1997 and even as on today, the Applicants have not been able to enjoy the fruits of the award. It is brought to the notice of this Court that amount as per the award was deposited with the Court Receiver and yet the Applicants have not been able to take possession of the flats in question complete in all respects. It is submitted that therefore, directions are to be sought for permission to allow the Applicants to complete the construction of the said flats under the supervision of the Court Receiver by utilizing amounts that have been already deposited.

5. This Court is of the opinion that before considering the specific directions sought in the present application, it would be appropriate that the Court Receiver is again formally appointed in respect of the flats in question and report is called from the Court Receiver, as to the status of the said flats, as on today, including outstanding statutory dues pertaining to the said flats. Report of the Court Receiver can also bring to the notice of this Court the status of the construction/completion of the flats and the car parkings in

question.

6. In view of the above, ad-interim relief is granted in terms of prayer clause (a), which reads as follows :

*“a) That this Hon’ble Court be pleased to appoint the Court Receiver, High Court, Mumbai or some other fit and proper person as a Receiver under Order XI, Rule 1 of Code of Civil Procedure 1908 of the said flats on such terms and conditions by continuing the order dated 12<sup>th</sup> October, 1998 passed by His Lordship Justice D.G. Deshpande.”*

7. The Court Receiver of this Court is directed to submit a report, within a period of four weeks from today, giving details of the status of the construction/completion of flat Nos. 301 and 302 situated on the 3<sup>rd</sup> Floor of Wembley Building, Vile Parle (E), Mumbai and also two car parkings. The Court Receiver shall also place before this Court details of outstanding statutory dues, if any, concerning the said flats.

8. The other prayers made in the present application shall be taken up for consideration on the next date of listing.

9. The Applicants shall serve a copy of the order passed today on the Award Debtor represented by the Liquidator.

10. List for further consideration on **10<sup>th</sup> August, 2023.**

**(MANISH PITALE, J.)**