
IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

INTERIM APPLICATION (L) NO.38721 OF 2024
WITH
INTERIM APPLICATION (L) NO.30823 OF 2024
IN
EXECUTION APPLICATION NO.1024 OF 2024

Pratibha M. Khanna .. Applicant

IN THE MATTER BETWEEN

Pratibha Mahendra Shah & Anr. .. Applicant

Versus

Poras Vinay Thapar ..Respondent

Mr. Shadab Jan i/b. Manoj Sabale, Advocate for Applicant.

Mr. Rohaan Cama a/w. Azraa Millwalla & Nishi Doshi i/b. M/s. Rashmikant & Partners, Advocates for Respondent No.1.

Mr. Ajay Bhise a/w. T.V. Dhotre, Advocate for Respondent No.2.

Mr. N.C. Pawar, OSD, Court Receiver present in Court.

CORAM: SOMASEKHAR SUNDARESAN, J.

**DATE : DECEMBER 26, 2024
(VACATION COURT)**

P. C.

1. Having heard the Learned Counsel for the Applicant as well as the Respondent, it is apparent that what is claimed by the Applicant is that the property situated at Dadar, Mumbai, which is scheduled for

physical possession being taken over by the Court Receiver on December 30, 2024 at 12.30 hours is not property entirely owned by the judgment debtor. The Applicant is a sibling of the judgment debtor and claims that taking over of physical possession would seriously undermine her interests and consequently prays for protection from physical possession, at least as an ad-interim measure before the Regular Bench can consider the Application for final disposal.

2. On the other hand, the Learned Counsel for the Respondents submits that symbolic possession of the property had already been taken on October 23, 2024 pursuant to an Order dated October 16, 2024 and since then, the Applicant had taken no steps to move an Application of the nature under consideration in these proceedings.

3. Learned Counsel for the Respondents, on instructions, undertakes that even if the Court Receiver takes possession as scheduled on December 30, 2024, the current factual position in relation to occupation of the premises (the premises are said to be licensed to a company called Manoeuvre Education Private Limited would not be upended). It is submitted that possession may be taken as scheduled by replacing the lock of the premises, and the said licensee may continue as an agent of the Court Receiver to occupy the premises, subject, of course, to further orders that may be passed by the Regular

Bench. Learned Counsel for the Respondents submits that the Court Receiver may replace the lock of the premises and provide a duplicate key to the licensee to enable the aforesaid arrangement to take effect. The Learned Counsel for Respondent points out that this would but a continuation of the symbolic possession with a firmer influence in the hands of the Court Receiver. Be that as it may, let the Regular Bench consider the Application on the next date of hearing.

4. In these circumstances, I am not inclined to interfere with the taking over of the possession as scheduled on December 30, 2024. This statement made by the Learned Counsel for the Respondents is accepted as an undertaking given to the Court. The possession may be taken on December 30, 2024 on 12.30 hours as scheduled and the licensee currently in occupation of the premises would have access to the premises for its use in terms of the license agreement that is currently in place. I am informed that the residual term of the license is for a couple of years more at the least.

5. In these circumstances, stand over to **January 8, 2025** for due consideration of the Regular Bench.

6. It is made clear that nothing contained in this order is an expression of an opinion on the merits of the matter. The terms on which the current licensee may continue to occupy the premises as an

agent of the Court Receiver shall be as determined by the Regular Bench. For now, all that the Court Receiver would do to give a duplicate key of the premises to the licensee currently in occupation without prejudice to the rights and contentions of the parties.

7. All actions required to be taken pursuant to this order shall be taken upon receipt of a downloaded copy as available on this Court's website.

[SOMASEKHAR SUNDARESAN, J.]