

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

APPELLATE SIDE

**CIVIL APPLICATION NO.168 OF 1994
IN
SECOND APPEAL NO. 47 OF 1991**

Husen Abdul Kadir Varvande. ... Applicant.
Versus.
Jama Masjid Mandala Trust
and another. ... Respondents.

Shri M.D.Angal for the Applicant.

None for the Respondents.

CORAM : ABHAY S.OKA, J.

DATED : 29th April, 2005.

P.C.:

1. Shri Angal appearing for the Applicant states that as directed by this Court by order dated 1st April 2005 he has sent notices to the Respondents by Registered Post A.D. The packets have been received back with remark "intimation posted". None appears for the Respondents.

2. Rule is issued on this Application on 28th January 1994. Till today reply is not filed.

3. By order dated 9th March 1994 passed in this Application this Court has directed that the Court Receiver shall be appointed in respect of the suit premises and the Appellants will be appointed as an agent of the Court Receiver.

4. The Court Receiver appointed by the trial Court submitted a report that the parties were not cooperating with him. Therefore, by order dated 4th February 2005 the parties were directed to showcase as to why action should not be taken against them for not cooperating with the Court Receiver. As the original Appellants did not file any explanation, by order dated 4th March 2005 the earlier order dated 9th March 1994 passed in this Civil Application was recalled.

5. It is stated in the Application that the suit house is kept locked and the original Appellants are not occupying in the suit house. Repairs have not been carried out to the suit house. The averments made in the Application are not denied by the original Appellants who are Respondents in the Civil Application. Hence the order of stay granted on 7th October 1991 in Civil Application No.4611 of 1991 deserves to be vacated. Accordingly the Application is allowed in terms of prayer clause (a).

6. Parties to act on an authenticated copy of this order.

Judge.