

**Supreme Court of the State of New York**  
**Appellate Division: Second Judicial Department**

D30373  
O/kmb

\_\_\_\_\_AD3d\_\_\_\_\_

Argued - February 18, 2011

REINALDO E. RIVERA, J.P.  
THOMAS A. DICKERSON  
RANDALL T. ENG  
PLUMMER E. LOTT, JJ.

2010-00635  
2010-00749

DECISION & ORDER

Town of Putnam Valley, et al., respondents,  
v Thomas Cabot, et al., defendants, Alexander  
Kaspar, defendant-appellant; Grace De Libero,  
nonparty-appellant.

(Index No. 627/06)

David O. Wright, Yorktown Heights, N.Y., for appellants.

Daniels and Porco, LLP, Carmel, N.Y. (Robert C. Lusardi of counsel), for respondent  
Town of Putnam Valley.

In an action, inter alia, for certain injunctive relief, the defendant Alexander Kaspar and nonparty Grace DeLibero appeal (1) from an order of the Supreme Court, Putnam County (O'Rourke, J.), dated November 12, 2009, which denied their cross motion to modify an order of the same court dated March 12, 2009, by, among other things, "properly delineat[ing] the . . . area of [the property] that could be the subject of the order," and (2), as limited by their brief, from so much of an order of the same court entered November 16, 2009, as granted the motion of the plaintiff Town of Putnam Valley to appoint a receiver for certain real property and approved its restoration plan for that property.

ORDERED that the order dated November 12, 2009, is affirmed; and it is further,

ORDERED that the appeal from so much of the order entered November 16, 2009,  
as approved the plaintiff Town of Putnam Valley's restoration plan is dismissed; and it is further,

March 15, 2011

TOWN OF PUTNAM VALLEY v CABOT

Page 1.

ORDERED that the order entered November 16, 2009, is affirmed insofar as reviewed; and it is further,

ORDERED that one bill of costs is awarded to the plaintiff Town of Putnam Valley.

So much of the order entered November 16, 2009, as approved the plaintiff Town of Putnam Valley's restoration plan for certain real property is not appealable as of right, as it did not decide a motion made on notice (*see* CPLR 5701[a][2]), and we decline to grant leave to appeal from that portion of the order (*see* CPLR 5701[c]).

Contrary to the appellants' contention, the Supreme Court providently exercised its discretion in denying their cross motion to modify the order dated March 12, 2009, by, among other things, "properly delineat[ing] the . . . area of [the property] that could be the subject of the order," and in granting the Town of Putnam Valley's motion for the appointment of a receiver (*see* CPLR 5106).

The appellants' remaining contentions are without merit.

RIVERA, J.P., DICKERSON, ENG and LOTT, JJ., concur.

ENTER:

  
Matthew G. Kiernan  
Clerk of the Court