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

**CHAMBER SUMMONS NO. 1215 OF 2014
IN
EXECUTION APPLICATION NO. 221 OF 2012
IN
SUMMARY SUIT NO. 2526 OF 2009**

Dinesh Chandra Maingi

...Applicant

In the matter between:

Dinesh Chandra Maingi

...Plaintiff

Vs.

Shivkant V. Chaudhary

...Defendant

Mr. Shantibhushan Nirmal i/b. Joby Mathew &
Associates for the Applicant

Mr. Sayed Akhtar with Kushnood Akhtar, Mr. Rehman Ansari &
Mr. Hitesh Thorat for the Defendant

Mr. Dineshchandra Maingi, Applicant present

**CORAM : MRS. ROSHAN DALVI, J.
DATED : 22ND JANUARY, 2015**

P.C. :

1. The judgment creditor / plaintiff has taken out this chamber summons for making deletions and amendments in the report of the Commissioner for taking accounts filed for the sale of the attached property in execution of the decree in the above suit.
2. The judgment creditor would want the Commissioner for

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taking accounts to delete the aspect relating to a mortgage created in favour of Oriental Bank of Commerce, Powai Branch, Mumbai.

3. The judgment creditor / plaintiff who is present in Court informs the Court that the mortgage has been created after the property was attached in execution of the above decree.
4. The purchaser at the auction sale must have complete knowledge of all the facts of the case. The priorities of the parties as secured and unsecured creditors would be decided in accordance with law. However for the sale of the property the aspect that at some time mortgage is created is required to be published and made known to the purchaser.
5. In view of the statement of the plaintiff issue notice upon the Manager, Oriental Bank of Commerce, Powai Branch, Mumbai to inform the Court about the present position with regard to the mortgage, if any, created by the defendant Shivkant V. Chaudhary in favour of the bank with the necessary documents.
6. Similarly with regard to gala No.A-4A, Agra Road Industrial Premises Co-op. Society Ltd., Ghatkopar the lien of Canara Bank is shown.
7. Issue notice upon the Manager of Canara Bank, Abdul Rehman Street, Mumbai-400 003 to inform the Commissioner for

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taking accounts the true position of the lien, if any, with necessary documents.

8. It is also made known by the aforesaid society that one Nilesh Premji Maru has sent a letter to the society not to issue NOC for the sale of unit A-4A without his consent. Issue notice upon Nilesh Premji Maru to show the Commissioner for taking accounts the reason for the said letter with documents.
9. A mortgage in favour of HDB Financial Services Ltd., Pandurang Budhkar Road, Lower Parel, Mumbai – 400 014 has also been informed with regard to shop No. 160 at Gallaria Shopping Arcade, Hiranandani, Powai, Mumbai. Issue notice upon the Manager of the HDB Financial Services to show the Commissioner for taking accounts the mortgage created in its favour with documents.
10. The plaintiff's Advocate shall have the relevant notices issued. The noticees shall file their requisite affidavits showing their entitlements to the respective properties of the award debtor / defendant Shivkant V. Chaudhary before the Commissioner for taking accounts.
11. The Commissioner for taking accounts shall consider the factual position with regard to all the properties and make his final report with regard to each of them and forward it to the Deputy

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Sheriff of Mumbai who shall then make the relevant publication informing the date and time of the auction sale as fixed.

12. The chamber summons is disposed off accordingly.

(ROSHAN DALVI, J.)