

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

CHAMBER SUMMON NO.28 OF 2013
IN
EXECUTION APPLICATION NO.886 OF 2012
IN
ARBITRATION CASE NO.62 OF 2011

M/s. Stonemann Royale Ltd.	...	Applicant
In the matter between Kotak Mahindra Prime Ltd.	...	Claimant
Vs.		
M/s. Stonemann Royale Ltd & Ors.	...	Respondents (Judg. Debtor)

Mr. Vishal Tambat, Adv. for claimant / decree holder.
Mr. Varun Ohri, Adv. i/b. Kay Legal & Associates LLP for Respondent
Nos.1 and 2.

CORAM : MRS. ROSHAN DALVI, J.
DATE : 16th March, 2015.

P.C. :

1. This Chamber Summons is taken out by the applicant / award debtor for quashing the attachment dated 23rd August, 2012. The applicant claims that the entire award has been satisfied by payment. The applicant has relied upon a statement made by the applicant annexed as Exh.2 to the Chamber Summons. The claimant / award holder accepts the payments made and gives credit for the payment made. However, claimant claims that four specified charges which are not shown in the statement of account are also payable but not paid. These are the legal charges, the principal due amount, the overdue charges and the pre payment charges. These specific charges have not been shown in the statement of account of the applicant

/award debtor. The legal charges are separately payable. The overdue charges are payable as per the agreement between the parties. The pre payment charges are also separately payable. The amount of the principal due is adjusted upon payments of the EMIs. Upon the adjustment a part of the principal amount remains due and that has been shown as principle due amount.

2. The total of those amounts due and payable but not paid and not shown to be paid in the statement of account made by the applicant / award debtor is Rs.1,17,973.68. Hence after giving credit award holder / claimant shall execute the award only for the remainder amount of Rs.1,17,973.68. Consequently the execution cannot be quashed.

3. Chamber Summons is dismissed with costs of Rs.10,000/-.

4. The execution shall proceed.

(ROSHAN DALVI, J.)