

✓

1

47.2.chs-86.16.sxw

sbw

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

CHAMBER SUMMONS NO.86 OF 2016

IN

EXECUTION APPLICATION NO.1817 OF 2015

Upendra Chandrashekhar Shukla & Anr.	...Applicants
<u>In the matter between</u>	
M/s. S. E. Investments Ltd.	...Claimant
V/s.	
M/s. Krishna Structural Steel(India)Limited & Ors.	...Respondents

.....
Mr. Avinash V. Joshi for the Applicants.
Ms. Vaishali Padale a/w Ms. Deepali Jadhav for the Respondents.
.....

CORAM : A. K. MENON, J.

DATE : 27TH JANUARY, 2016.

PC.:

This Chamber Summons is taken out by the applicant claiming to be purchaser for value without notice of flat no.90, 'C' Wing, 3rd floor, Reserve Bank Employees' Snehadhara CHS Ltd., Dadabhai Cross Road No.3, Vile Parle(W), Mumbai-400 056. The applicant has purchased flat under a Deed of Sale dated 13th May, 2013. The property was initially mortgaged to the Cosmos Co-operative Bank Ltd. which has since issued a notice of motion on 25th March, 2013. It is on this basis that the transaction was completed and Deed of Sale registered on 13th May, 2013. The execution of award which is sought was admittedly passed on 17th December, 2014.

2] In the circumstances, the learned counsel for the Respondent states, on instructions of her client that the applicant does not desire to proceed against the said flat and relative shares and that she will make an application for amendment of the execution application. In the meantime, it is a case of the applicant that the warrant of attachment was issued by the Registry and the property was attached by the Sheriff of Mumbai on 16th December, 2015. In view of the statement made across the bar, on instructions of the applicant Mr. Joshi seeks an order in terms of prayer clause (a) of the application.

3] Having considered the facts and in view of the admitted position that the award is passed after the date of the sale of the premises to the present applicant. The application is liable to be allowed. In the circumstances, I pass the following order:-

- (i) The Chamber Summons is made absolute in terms of prayer clause (a).
- (ii) The claimant is directed to amend the execution application and delete all reference to the subject property within a period of two weeks from today.
- (iii) The Sheriff of Mumbai to act on a certified copy of this order authenticated by the Registry.

(A. K. MENON, J.)