

sbw

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

**NOTICE OF MOTION NO.2168 OF 2015
IN
EXECUTION APPLICATION NO.1479 OF 2015
IN
ARBITRATION AWARD NO.OCT.1/2013
WITH
CHAMBR SUMMONS(L)NO.1808 OF 2015
IN
EXECUTION APPLICATION NO.1479 OF 2015**

Mrs. Renu H. Duseja
In the matter between
Mrs. Renu H. Duseja

..Applicant

..Applicant
(Org. Jdmt. Creditor)

Versus

Deenatha Nandalal Patni & Ors.

..Respondents
(Org. Jdmt. Debtors)

.....

Ms. Rajalakshmi Mohandas i/b. Mr. Namdev Gore for the Applicant.
Mr. Bhalchandra S. Shinde for the Respondents.

.....

CORAM : A. K. MENON, J.

DATE : 15TH JANUARY, 2016.

PC.:

This is a Notice of Motion seeking restoration of the
Execution Application which came to be rejected vide order dated

30th September, 2015 the order reveals that the matter came to be rejected under Rule 986 for non-removal of office objections before 14th October, 2015. In the affidavit in support the applicant has stated that learned Advocate who was attending to the application could not attend the matter on 30th September, 2015 and was therefore unaware of the self-operative order.

2] Having perused the application and the affidavit in support, I find that it is sufficient cause to restore the Execution Application. Accordingly, the Notice of Motion is made absolute in terms of prayer clause(a) and (b).

3] The learned counsel for the applicant further states that the defendant-Judgment Debtor has failed and neglected to pay the decretal amount being the amount awarded in Arbitration.

4] In view of the fact that the learned Advocate for the defendant states that the Judgment Debtor has instructed to state that they are desirous of paying the decretal amount however due to financial constraints it is not been paid. He submits that the advertisement was inserted to dispose of the property in flat no.502 so as to raise funds. The learned Advocate seeks sometime to file his

affidavit-in-reply. Prima facie case for grant of relief is made out.

I therefore pass the following order;

- (i) there will be an ad-interim order in terms of prayer clause (b)
- (ii) Reply to be filed by 22nd January, 2016.
- (iii) List the matter on **29th January, 2016**. In the meantime, the applicant shall comply all office objections on or before 29th January, 2016 failing which this order shall stand vacated.

(A. K. MENON, J.)