

Shephali

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
CHAMBER SUMMONS NO. 1355 OF 2016
IN
EXECUTION APPLICATION (L) NO. 916 OF 2015
IN
SUIT NO. 3204 OF 2009**

Sushma Sukumar Samanta ...Applicant
Versus
Ashok Suryakant Zaveri (since deceased) through ...Defendants
LRs

**WITH
IPA NO. 7 OF 2016
IN
CHAMBER SUMMONS NO. 1355 OF 2016**

Sushma Sukumar Samanta ...Applicant
Versus
Voltas Ltd Co & Ors ...Defendants

**Mr Shivkumar S Samanta, for Sushma S Samanta, Applicant, in
person.**

**CORAM: G.S. PATEL, J
DATED: 2nd May 2017**

PC:-

1. This Chamber Summons is misconceived and misdirected.
2. The Suit was decreed by an order dated 8th March 2010. It was for specific performance of an Agreement for Sale dated 10th October 2008 between the Defendant, Sushma S. Samanta, and the original Ashok Zaveri, since deceased. The property is described at Exhibit "A" to the plaint. This is a parcel of land with a building in "C" Ward at Dhanji Street, Zaveri Bazar, Mumbai. The property is described in detail in the drawn up decree.
3. The Plaintiff put that decree into execution, in the course of which she applied, through her husband, Shivkumar S Samanta, to the Municipal Corporation of Greater Mumbai for a transfer of the property in the MCGM records to her name. On 25th February 2016, the Office of Assistant Assessor and Collector, "C" Ward of the MCGM wrote to Shivkumar Samanta saying there was a property tax demand of Rs. 3,11,589/- and unpaid amount of Rs. 19,90,250/- toward repair cess in respect of this property. This was to be paid before any transfer could be effected. The Plaintiff was asked to submit an attested photocopy of the latest property card and other documents; Format Nos. 1 and 3 were attached with the covering letter. The letter also said that failure to produce these documents within 15 days would result in the application for transfer being treated as closed.
4. It seems that the only thing that Plaintiff and her husband did since was to file this Chamber Summons with the following prayer:

"(a) The Bombay Municipal Corporation may be directed to accept the outstanding return and penalty of Rs. 3,11,589/- & 19,90,520/- to be deposited in this Hon'ble Court and Bombay Municipal Corporation may be directed to hand over right title and interest and all original Registration Conveyance old and present, new documents within 15 days from this application to the Applicant."

5. No order is required for the Samantas to make payment to the MCGM; it has demanded payment, and stipulated conditions. The Samantas were always at liberty to make that payment. The second part of the prayer is misconceived: there is no question of the MCGM 'handing over right title and interest and all original Registration Conveyance old and present, new documents', a phrasing that is wholly incomprehensible. The MCGM has agreed to record the transfer to the judgment creditor's name on the fulfilment of certain conditions; that is all.

6. The Affidavit in Support indicates that the Plaintiff and her husband do not want to submit the property card. They say they are not required to do so on the basis that the property belongs to the Plaintiff. Instead they seek a direction that the original conveyance be returned. This is incomprehensible. It is not possible to grant this kind of prayer.

7. The Plaintiff's husband, Shivkumar, arguing in person with my leave, now states that demand of property tax and repair cess will be paid. The MCGM's demand is, however, now more than a year old. The Plaintiff will have to make the necessary application to the MCGM to determine the amount presently due. The MCGM is

directed is directed to consider the Plaintiff's application upon the Plaintiff making payment of the entire amount presently due toward property tax and repair cess. The Plaintiff agrees and undertakes to furnish the necessary documents in the format required by the MCGM to enable the MCGM to record the transfer.

8. The Chamber Summons is disposed of in these terms with no order as to costs.

(G. S. PATEL, J.)