

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
IN ITS COMMERCIAL DIVISION
CHAMBER SUMMONS NO. 28 OF 2017
IN
COMMERCIAL ARBITRATION PETITION NO. 144 OF 2016**

Reliance Capital LimitedApplicant

IN THE MATTER BETWEEN

Reliance Capital LimitedPetitioner
Versus

Rakesh Goel and Ors ...Respondents

Mr. Sandesh Godse I/b. Vivek Patil and Associates for the
Petitioner.

Ms. Peppino Bahl I/b. Law Offices of Divya Bahl for the
Respondents.

**CORAM: G.S. KULKARNI, J.
DATED: 18th September, 2017**

PC:-

1. Heard learned counsel for the parties. The prayer in the chamber summons as moved on behalf of the applicant/original petitioner is that the applicant be permitted to withdraw the royalty amount deposited by the respondents with the Court

Receiver, High Court, Bombay. By an order dated 27/10/2016 passed by this Court, the Court Receiver was appointed as receiver in respect of the mortgaged properties as more particularly set out in Exhibit-F to the petition. The respondents were directed to forthwith hand over the symbolic possession of the mortgaged property to the Court Receiver as recorded in the orders of this dated 15/10/2016. The Court Receiver was to give an option to the respondents to act as agents of the Court Receiver.

2. In pursuance of the said orders passed by this Court, the Court Receiver on 01/12/2016 had taken a symbolic possession of the premises from the respondents. At a meeting held on 21/01/2017, the Draft Agency Agreement was finalized and the learned Court Receiver had called upon the respondents to deposit with the Court Receiver the sum of Rs. 4,94,244/- in cash/demand draft/ pay order, as royalty charges without interest, every month and that the sums would be adjusted against proper fulfillment of this Agreement. In compliance of the draft agency agreement, the respondents have stated to have deposited with the office of Court Receiver, royalty charges every month from January 2017 to

September 2017, the total amount deposited is Rs. 44,48,196/- which the applicant seeks to withdraw by this chamber summons.

3. The respondents have appeared and have placed on record the statement on behalf of the respondents dated 18/09/2017 through their advocates, in which the respondents have said to have no objection to the said amounts being withdrawn by the applicant/petitioner and also simultaneously being adjusted by the petitioner towards the respondents liability to the petitioner.

4. In the circumstances, the chamber summons is required to be allowed. The applicant/petitioner is permitted to withdraw the royalty amount deposited by the respondents with the Court Receiver dated 03/09/2017. However, the withdrawal is permitted subject to the charges, commission, expenses etc. of the Court Receiver.

5. Chamber summons is disposed of in the above terms. No costs.

(G.S. Kulkarni, J.)