

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

**NOTICE NO.793 OF 2015
IN
EXECUTION APPLICATION NO.759 OF 2015**

Office Notes, Office Memoranda of Coram, Appearances, court's orders or directions and Prothonotary's orders	Court's or Judge's orders
--	---------------------------

Mr.Rahul Narichania Senior Counsel, Mr.Siddharth Chhabria, Mr.Parikshit Desai and Mr.Hiren Mehta for the applicant

Mr.Sahil Mahajan for the respondent

**CORAM : K. K. TATED, J.
DATE : NOVEMBER 3, 2017**

P.C.:

1. Heard.
2. The learned Senior Counsel for the applicant submits that by this Execution Application, they are seeking permission to execute the award dated 11.6.2016 passed by High Court of Hong Kong, Special Administrative Region, Court of First Instance in Action No.219 of 2014. He submits that our High Court in the matter of ***Bank of India vs. Harshadrai Odhavji Mody, 2002 (5) BCR 228*** in paragraph 10 held that such Execution Applications are required to be filed before the

Debt Recovery Tribunal. Paragraph 10 of the said judgment reads thus:

“10. Having regard to the clear terms in which section 17 is couched and the interpretation placed on the scheme of the R.D.B. Act by the Supreme Court in Allahabad Bank v. Canada Bank (Supra), it is clear that the execution of a decree whether domestic or foreign are in the nature of an application for recovery of a debt and must be entertained and decided by the D.R.T. Alone and its Recovery Officer only under the scheme of the R.D.B. Act.”

3. The learned Senior Counsel for the applicant submits that in view of the law laid down by our high court, applicant may be permitted to withdraw the present notice as well as Execution Application with liberty to file before the Debt Recovery Tribunal at Mumbai. The learned Advocate on record for the applicant filed praecipe dated 3.11.2017 to that effect. Same is taken on record and marked 'X' for identification. Same is granted.

4. Notice as well as Execution Application stand disposed of as withdrawn with liberty to file the same before the Debt Recovery Tribunal at Mumbai.

(K.K.TATED, J.)