

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

NOTICE NO.1614/2016
IN
EXECUTION APPLICATION NO.1353/2016

Office Notes, Office Memoranda of Coram, Appearances, court's orders or directions and Registrar's orders	Court's or Judge's orders
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Ms. Swapnali Rane for the claimant.

CORAM : K. K. TATED, J.
DATE : NOVEMBER 27, 2017

P.C.:

1. Heard. The learned counsel for the claimant submits that she has received instructions from her client that they are not executing the Execution Application against defendant Nos.1 and 3. The statement is accepted.

2. The learned counsel for the claimant submits that defendant No.2 is duly served. To that effect, she has filed Affidavit of service dated 20.01.2017. Same is taken on record. She undertakes to get it affirmed through her client also during the course of the date. Undertaking is accepted.

3. In spite of service, none appeared for defendant No.2.

4. The Notice is filed by the claimant under Order XXI Rule 22 of the Code of Civil Procedure, 1908 to proceed with Execution Application to execute the decree dated 11.05.2012.

5. The learned counsel for the claimant submits that there was delay on their part to file the Execution Application within time. She submits that they filed the Execution Application beyond two years from the date of decree. Hence, they filed the present Notice.

6. Considering the submissions made by the learned counsel for the claimant, affidavit in support of the Execution Application and as in spite of service, none appeared for defendant No.2, I am satisfied that the claimant has made out a case for allowing the Notice against defendant No.2. only.

7. Hence, following order is passed:

a. The Notice filed by the claimant under Order XXI Rule 22 of the Code of Civil Procedure, 1908 is made absolute against defendant No.2.

- b. The claimant can proceed with Execution Application to execute the award dated 11.05.2012 against defendant No.2 as per law.
- c. The Notice stands disposed of accordingly.

JUDGE