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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
CHAMBER SUMMONS (L) NO. 1817 OF 2016
IN
EXECUTION APPLICATION NO. 1271 OF 2015
IN
SUMMARY SUIT NO. 334 OF 2012**

Sailam B.V.B.A.	...Plaintiff
<i>Versus</i>	
Helious Jewellery Pvt Ltd & Ors	...Defendants
<i>And</i>	
Dhavir Jogani & Anr	...Respondents

**WITH
CHAMBER SUMMONS NO. 1214 OF 2016
IN
EXECUTION APPLICATION NO. 1271 OF 2015
IN
SUMMARY SUIT NO. 334 OF 2012**

Sailam B.V.B.A.	...Plaintiff
<i>Versus</i>	
Helious Jewellery Pvt Ltd & Ors	...Defendants
<i>And</i>	
Alex Kuruvila	...Applicant

**Mr Archit Jayakar, i/b Jayakar & Partners, for the Applicant in
CHSL/1817/2016.**

**Ms Harshita Joglekar, i/b Yashpal Jain, for the Applicant in
CHS/1214/2016.
An Advocate, i/b Madhavi Deshpande-Ravuri, for the Respondent.**

**CORAM: G.S. PATEL, J
DATED: 27th February 2017**

PC:-

CHAMBER SUMMONS (L) NO. 1817 OF 2016

1. *Prima facie* it is evident that Defendants Nos. 2 to 5 and their family members have attempted to transfer large sums of about Rs. 1.25 crores only with a view to defeat the decree that the Plaintiff holds against them. The two Respondents to this Chamber Summons are minors. They are joined because these transfers were purportedly routed to them and then from them by one or the other of their natural guardians/parents to some other entity. There is as yet no valid explanation for these so-called transfers or gifts. One of the transfers appear to have been in the amount of Rs. 60 lakhs between the time an order of conditional leave was passed and the time of the final decree for Rs. 3,67,85,654/- (with further interest at the rate of 18%). The other transfers were all after this final decree.

2. There was a previous order dated 4th May 2016 (KR Shriram J). I am informed that an Appeal against that order was dismissed this morning. None of the Respondents are present in Court; nor are the guardians/parents of the two minor Respondents.

3. There is a three-page Affidavit dated 16th September 2016 of Mr Aditya Jogani, the 1st Defendant. This does not seem to explain how the transfers came to be made in the name of the minors in the first place or the reasons for these transfers.

4. Respondents Nos. 2, 3, 4 and 5 and the parents/natural guardians of the two minors will remain personally present in Court on 3rd March 2017 at 11.00 a.m. The matter will be listed on the supplementary board.

5. Mr Jayakar will give specific notice by hand delivery and by courier through an officer of the Court to be deputed by the Prothonotary & Senior Master. If any of these Defendants / minor Respondents' parents are not present on that date, I will issue a warrant to compel their attendance. Whether that warrant is bailable or non-bailable is something that I will decide on the next date. Mr Jayakar points out that he has given notice of today's hearing and listing of this matter. Despite this, none of the Defendants nor the parents of the two minor Respondents are present.

CHAMBER SUMMONS NO. 1214 OF 2016

6. This is a Chamber Summons by a third party who says his Flat No. 23, 2nd Floor, Chitrakoot Apartments and Garage No. 23 on the land bearing C.S. No. 1/664 of Cumbala Hill Division, Altamount Road, Mumbai 400 026 was wrongly attached by the Plaintiff under a Warrant of Attachment dated 14th July 2015 in Execution Application No. 1271 of 2015.

7. This appears to be correct. The Applicant, one Alex Kuruvila, purchased this flat and garage at an auction sale conducted by the Oriental Bank of Commerce under the SARFAESI Act and Rules. The Applicant holds a duly registered and stamped Sale Certificate dated 28th August 2013. Prior to that point, the flat was mortgaged to the Oriental Bank of Commerce. The bank moved against the property under the SARFAESI Act. It conducted an auction sale. Mr Kuruvila was the successful bidder, and this is how he has a Sale Certificate in his favour in respect of this flat and garage.

8. There is no question of this matter being delayed any further or of the Plaintiff contending that the Defendants might still be the owners of this property. One or more of the Defendants were the mortgagors of the flat and garage. Their right and title to this property were determined in proceedings under the SARFAESI Act. There is no question of the Plaintiff moving in execution against this property.

9. The Chamber Summons is made absolute in terms of prayer clause (a). The Warrant of Attachment levied on the flat by the Sheriff of Bombay is to be lifted immediately, acting on an authenticated copy of this order. He will execute it within seven days from today. No costs.

(G. S. PATEL, J.)