

Shephali

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY  
ORDINARY ORIGINAL CIVIL JURISDICTION  
CHAMBER SUMMONS NO. 138 OF 2018  
IN  
EXECUTION APPLICATION NO. 3225 OF 2016  
IN  
SUIT NO. 3204 OF 2009**

|                                       |               |
|---------------------------------------|---------------|
| Sushma Alias Susama S Samanta         | ...Plaintiff  |
| <i>Versus</i>                         |               |
| Ashok S Zaveri (since deceased) & Anr | ...Defendants |

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**Mr Sukumar Samanta, *Applicant in person.***

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**CORAM: G.S. PATEL, J  
DATED: 6th June 2018**

**PC:-**

1. The Plaintiff is not desirous of carrying out any amendment as permitted by my order of 16th April 2018 to make his Chamber Summons even remotely comprehensible. That is entirely his decision. I note that prayer (c) of this Chamber Summons starts at page 3 and continues without pause all the way to page 6. Similarly, prayer (d) sprawls over one and half pages. The reason I granted the Plaintiff latitude was simply because of the wording of these prayers. At the cost of some trouble to my secretarial staff, I will now

reproduce prayers (b), (c) and part of (d) of this Chamber Summons to demonstrate how utterly unworkable they are.

(b) That the Honourable Court the Honourable Shri Chief Justice all the Judges and Judicial Assessment Judge of the Ordinary Original Civil jurisdiction the High Court of Judicature at Bombay be pleased to issue writ of mandamus, Cowarranto or any other appropriate order or direction in the nature of 1mandamus, Cowarranto issued original rule to the proposed Respondents 2-a to g to transfer all original old title, right, power, duty and hand over of present Applicant-original-Plaintiff i.e. Copies of the attachment warrants, conveyance, certificate, grant, award with all orders, maps, plans, the Indian Acts, Bombay Acts and other Acts, Bills, publish in the Bombay Government Gazette etc. As per old and new laws of Applicants AD.J/M/1813/ 2013 Certificate No. 339 Decree No. 5 Recognized by the Court on 04-06-2014.

(c) That the Honourable Court the Honourable Shri Chief Justice all the Judges and Judicial Assessment Judge of the Ordinary Original Civil jurisdiction the High Court of Judicature at Bombay be pleased to issue of mandamus, Cowarranto or any other appropriate order or direction in the nature of mandamus, cowarranto to the Proposed Respondents 2-A to G to transfer all original old title, right, power, duty and hand over in favour of present Applicant-original-Plaintiff of the Hindu property No. 125, By a Hindu Goven1ed by the law of the Mitakshara to set aside his father's alienation of ancestral property, the royal charter awarded under Sections 167, 168 & 169, of the Ordinary Original Civil Jurisdiction the High Court of Judicature at Bombay, provisions under Section 167 (a), (b), (c) and (d), Act No. XXI 1870 Section 2 (a), (b), all "judicial proceeding" of Sections 193, 219, and 228 of the Indian penal Code, owner rights 9-III,-C-3,-33, joint estate owner State account No. 107, Survey No. B6/T, Suit No.

56 of 1899 decree . order passed on 15-02-1899, Application for Execution under Section 235, passed by the order under Section 245-246, Execution of decree under Section 337 of the Code of Civil Procedure, Certificate No. 339, Recognized by Court in the High Court of Judicature at Bombay ordinary original civil jurisdiction on 08-01-1902, owner Estate No. 110-111, Collector Assessment No. 3, Assessment record in name on 18-10-1903, Detailed directions for drainage of House at Duncan Road C/N Ward under Section 231, 234. 239, 240 and 243 of the City of Bombay Municipal Act, 1888, issued to Executive Engineer, Drainage, Municipality of Bombay on 27-05-1909. Intimation of Disapproval under Section 346 of the City of Bombay Municipal Act, 1888., issued to Bombay Municipality Executive Engineer on 20-08-1909. Suit No. 652 of 1925 passed by the order & passed by the decree order under the code of civil procedure on 29-01-1925. Form of return of Income and total world income individual status year ending 1946-47, under Sub Section (1) or (2) Section 22 of the Indian Income-tax Act, 1922, all payment paid on 31-03-1946 Income-Tax Office issued the letter seeking interview in connection with assessment of property vide Ref. No. 13559 of 1946. your obedient servant, Income-Tax Officer; C. Ward. Section I. Bombay on 14-01-1947. B.M.P.P.-J. 522-45-20,000. J-3 No. CCR 843 of 1947-48, they are your obedient servant, for Assessor & Collector on 25-04-1947. Notice muter Section 22(4) and 23(2) of the Indian income-tax Act, 1922, issued to Income-Tax Officer, C. Ward. Section I. on 09-12-1949. Fundamental Bill 61, Bill-cum-receipt 24/VII-172, 24/VII-175, 24/VII-562, 24/VIII-172, Bill Nos-8560, 8380, 2578, 8777, 2606, 8684, 2585, 2580, 14921, 14922, owners of Land, estate, Immoveable property "C" Description of property House with Shops Ward 9(C) & C Ward No. C-720-721 and 722 Street No. 26-30 issued to Assessor & Collector E. & OE. And Fundamental Bill 61, rights Bill-cum-receipt 24/II-653, 24/VII-17, 24/VII-172, 24/VII-175, 24/VIII-172, Bill Nos-7493, 7494, 599,

597, 20787, 20788, 658, 8008, 613, 7713, 7811, 7698, 6001, owners of Land, estate, Immoveable property "E" Description of property House, Ward 17(E), Ward No. E-1513-1515, Street No. 20-22, issued to Assessor & Collector E. & OE. Bombay Municipal Corporation on 1951-1958. B.M.P.P.-J. 3617-52-50,000. Memo of Transfer of Bills Form No. 103. 11/36, From "E" Ward to "C" Ward, place of business at 30/34 at Dhanji Street, signed under Section No. 5, issued to Ward inspector and Ward Superintendent on 20-04-1953. Invoice of Tax paid of Rs. Three Hundred and thirty four Annas thirteen only, by the owner. Invoice of Tax paid of Rs. Five Hundred and Ten and Annas Four only, Income tax Account .No. 50-51, receipt on 11-11-1953. Invoice of Tax paid of Rs. Five Hundred and Ten & Annas Four only, by the joint owner,. Invoice of Tax paid of Rs. Five Hundred and Ten and Annas Four only, Income tax Account No. 52-53, receipt on 05-01-1954. Notice under Sections 231, 257 and 260 of the Bombay Municipal Corporation Act. 1888. Issued to Assistant Engineer(Drainage), Drainage Engineer (Maintenance), Municipal Commissioner for Greater Bombay, on 25-7- 1956. Receipt 'C' on 09-07-1966, Sole trustee legal representative Collector registration 1\o. E-2125 & E-1074 right power grant on 08-10-1968, Superseding cover Note No. 19456/69, Estate duty order E.D.LR. No. M-2410 issued Assistant Collector on 13-03-1970, Insurance policy No. 25818/ 70, on 01-07-1970. Petition No. 801 of 1970, No. 339/70-71/1589/P issued to General stamp office, on 29-01-1971, Assessment order under Section 16(3) W. T.N.S. II MGIPTC- 380-6 W.T./75-76-GIPTC-(C-333)-30-01-76-80,00,000. 5th W.T.O, C-I Ward, Bombay, on 27-06-1977, Letter No. Tr. (CJ, SR 58 of 1985-86 issued to Bombay municipal Corporation on 13-12-1985 of my favour of all ownership place legal rights, title in Suit Decree, Orders, Writ Petition Orders, Direction, Judgment, Adjustment, ADJ/M/325/ 2013 Certificate No. 325 along with ADJ/M/1813/2013 Certificate No. 339 Decree No. 5 Recognized by the Court on 04-06-2014,

Execution of a Decree, on 10-04-2013 to 22-07-2014. thereafter the Court issued the notice to Defendant-Original-respondents of Execution/2015/444 on 21- 02-2015 the Respondents-Original-Defendants replayed application & order to Court and me on 26-02-2015, as above passed by the order dated on 27th February, 2015, 17th March, 2015, 25th June, 2015, 2nd July, 2015, 3rd August, 2015, 31st August, 2015, 4th September, 2015, 29th September, 2015, 6th January, 2016, 27th January, 2016, 3rd February, 2016, 23rd August, 2016, 21st September, 2016, 10th April, 2017, 2nd May, 2017. As above Trf. Notice issued to Bombay Municipal Corporation, on 16-06-2017, 17-06-2017, 19-06-2017, 03-07-2017, 05-07-2017, 24- 08-2017. Applicants Compliance Affidavit, Written Argument, Letters, Applications submit to the authorized department No.5 and other offices on 27-06-2017, 03-08-2017, 14-08-2017, 18-08-2017, 23-08-2017, 28- 08-2017, 01-09-2017, 22-09-2017, 06-10-2017 the High Court Hon'ble Shri Justice K. K. Tated, Court No. 34, on 13-10-2017. Chamber Cummons No. 280 of 2013 in Execution Application No. 233 in Notice No. 345 of 2013 in Suit No. 3204 of 2009 Application for Ezeuction under order XXI, Rule 11(2) Notice order XXI, Rule XXII, by issuing warrant of Attachment under order XXI Rules 43 and 54 of the Code of Civil Procedure, all interlocutory proceedings are also disposed of. Dated on 10-04-2013, 03.,07-2013, 11-07-2013, 02-07-2014 and 22-07-2014. Notice of demand under Sections 82(5) and 202 of the Bombay Municipal Corporation Act. Final notice under Sections 203 & 279 of the Bombay Municipal Corporation Act. PN/ I81, 38 and PN/ 74, 91, 62, penalty order under Section 207A(2) of the Bombay Municipal Corporation Act, liable to the penalty order aforesaid Sections of the various Acts referred to in the heading. Bill under Sections 140A(2) and 200 of the Bombay Municipal Corporation Act. issued to Assessor & Collector E. & OE. And Municipal Commissioner for Greater Bombay, on 10-10-2008 to 31-03-2017. I have already fu11 payment Receipts dated 12-06-2017. I

request above original title, right, power, duty and hand over original old title, right, power, duty and hand over all old and new original records i.e. Attachment warrants, Conveyance, Certificate, Award, Grant with all Orders maps, plans, the Indian Acts, Bombay Acts and other Acts, Bills, publish in the Bombay Government Gazette etc. as per laws.

(d) That the Honourable Court the Honourable Shri Chief Justice all the Judges and Judicial Assessment Judge of the Ordinary Original Civil jurisdiction the High Court of Judicature at Bombay be pleased to issue of mandamus, Cowarranto or any other appropriate order or direction in the nature of mandamus, Cowarranto to the Proposed Respondents to transfer all original old title, right, power, duty and hand over in favour of present Applicant-Original-Plaintiff of the Form of return of Income and total world income individual status year ending 1946-47, under Sub-Section (I) or (2) Section 22 of the Indian Income-tax Act, 1922, all payment paid on 31-03-1946. Income-Tax Office issued the letter Seeking interview in connection with assessment of property vide Ref. No. 13559 of 1946. your obedient servant, Income-Tax Officer, C. Ward. Section I. Bombay on 14-01-1947. Notice under Section ,22(4) and 23(2) of the Indian income-tax Act, 1922, issued to Income-Tax Officer, C. Ward. Section I. on 09-12-1949. Invoice of Tax paid of Rs. Three Hundred and thirty four Annas thirteen only, by the owner. Invoice of Tax paid of Rs. Five Hundred and Ten and Annas Four only, Income tax Account No. 50-51, receipt on 11-11-1953. Superseding cover Note No. 19456/69, Estate duty order E.D.J.R. No. M-2410 issued Assistant Collector on 13-03-1970, Insurance policy No. 25818/70, on 01-07-1970. Assessment order under Section 16(3) W.T.N.S. II MGIPTC-380-6 W.T./75-76-GIPTC-(C-333)-30-01-76-80,00,000. 5th W.T.O, C-I Ward, Bombay, on 27-06-1977. I have already full payment Receipts dated 12-06-2017. I request above original title, right, power, duty and hand over original all old and new original records i.e. Attachment warrants,

Conveyance, Certificate, Award, Grant with all Orders maps, plans, the Indian Acts, Bombay Acts and other Acts, Bills, publish in the Bombay Government Gazette etc. as per laws. (e) That the Honourable Court the Honourable Shri Chief Justice all the Judges and Judicial Assessment Judge of the Ordinary Original Civil jurisdiction the High Court of Judicature at Bombay be pleased to issue of mandamus, Cowarranto or any other appropriate order or direction in the nature of mandamus, Cowarranto to the Proposed Respondents to transfer all original old title, right, power, duty and hand over in favour of present Applicant-Original-Plaintiff of the Detailed directions for drainage of House at Duncan Road C/N Ward under Section 231, 234. 239, 240 and 243 of the City of Bombay Municipal Act, 1888, issued to Executive Engineer, Drainage, Municipality of Bombay on 27-05-1909. Intimation of Disapproval under Section 346 of the City of Bombay Municipal Act, 1888., issued to Bombay Municipality Executive Engineer on 20-08-1909. B.M.P.P.-J. 522-45-20,000. 1-3 No. CCR 843 of 1947-48, they are your obedient servant, for Assessor & Collector on 25-04-1947. Fundamental Bill 61, Bill-cum-receipt 24/VII-172, 24/VII-175, 24/VII-562, 24/VIII-172, Bill Nos-8560, 8380, 2578, 8777, 2606, 8684, 2585, 2580, 14921, 14922, owners of Land, estate, Immoveable property "C" Description of property House with Shops Ward 9(C) & C Ward No. C-720-721 and 722 Street No. 26-30 issued to Assessor & Collector E. & OE. And Fundamental Bill 61, rights Bill-cum-receipt 24/II-653, 24/VII-17, 24/VII-172, 24/VII-175, 24/VIII-172, Bill Nos-7493, 7494, 599, 597, 20787, 20788, 658, 8008, 613, 7713, 7811, 7698, 6001, owners of Land, estate, Immoveable property "E" Description of property House, Ward 17(E), Ward No. E- 1513-1515, Street No. 20-22, issued to Assessor & Collector E. & OE. Bombay Municipal Corporation on 1951-1958. B.M.P.P.-J. 3617-52- 50,000. Memo of Transfer of Bills Form No. 103. 11136, From "E" Ward to "C" Ward, place of business at 30134 at Dhanji Street, signed under Section No.

5, issued to Ward inspector and Ward Superintendent on 20-04-1953. Notice under Sections 231, 257 and 260 of the Bombay Municipal Corporation Act. 1888. Letter No. Tr. (CJ, SR 58 of 1985-86;"

2. Not to put too fine a point on it, prayer (c) as shown above asks for an issuance of a mandamus or something called a "cowarranto" or some appropriate, order or direction in the nature of mandamus, and again the same "cowarranto", all to transfer various properties. First of all, the Plaintiff needs to realise that what he is invoking is not the writ jurisdiction of this Court under Article 226 of the Constitution of India. A mandamus or any other high prerogative remedy will not issue under the Code of Civil Procedure 1908. This is a Chamber Summons in an Execution Application in a Civil Suit filed on the Original Side of this Court.

3. This is precisely the reason that I afforded this Plaintiff an opportunity to correct his prayers. He does not want to correct his prayers. The Chamber Summons must suffer only one fate. It is dismissed as not maintainable.

**(G. S. PATEL, J)**