

Atul

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
NOTICE OF MOTION NO. 1318 OF 2017
IN
EXECUTION APPLICATION NO. 159 OF 2014**

Abhyudaya Cooperative Bank Ltd	...Petitioner
<i>Versus</i>	
Biswanath K Behera & Ors	...Respondents
<i>And</i>	
Model Cooperative Bank Ltd	...Applicant

Mr Chacho Joseph, *with Sneha Sonawane, for the Applicant.*
Mr Madhur Nair, *i/b Nilesh Thakur, for the Defendants.*

CORAM: G.S. PATEL, J
DATED: 1st October 2018

PC:-

1. The Applicant, Model Cooperative Bank Ltd., has a simple mortgage over Flat No. 601, Building No. 3A, Powai Lake Cooperative Housing Society Limited, MHADA HIG complex, A.S. Marg, Mumbai 400 076. The Decree/Award Holder is the Abhyudaya Cooperative Bank Limited. It is an unsecured creditor. Clearly, it cannot proceed against the flat so long as the security over it in favour of Model Cooperative Bank Limited is subsisting.

2. The attachment will have to be raised.

3. The Notice of Motion is made absolute in terms of prayer clause (a). No costs.

4. The Decree Holder may proceed in accordance with law for recovery of its decretal claim against other properties of the Judgment Debtors.

(G. S. PATEL, J)