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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
CHAMBER SUMMON NO.595 OF 2017
IN
EXECUTION APPLICATION NO.362 OF 2013**

Edelweiss Asset Reconstruction Company Ltd	...Applicant
<i>In the matter between</i>	
Karsam Tele Trading Pvt Ltd	...Petitioner
<i>Versus</i>	
Rinku Patodia	...Respondent

None, *for the Decree Holder.*

Mr Rohit Gupta, *with Mr Nikhil Rajani i/b V Deshpande & Co., for the Applicant.*

CORAM: G.S. PATEL, J
DATED: 31st January 2018

PC:-

1. On a previous occasion Mr DP Guchiya for the decree holder complained that his matter did not reach and was not being heard. Since then on two separate occasions when listed, given priority and called out, Mr Guchiya has been absent. The Chamber Summons by Applicant will therefore proceed in Mr Guchiya's absence.
2. The Application is to raise attachment levied on two immovable properties described in prayer (a) pursuant to a warrant

of attachment dated 8th April 2013 the properties are (i) A/404, Dheeraj Solitare, Building No.18, Chincholi Bunder Road, Malad (W), Mumbai 400 064 and (ii) A/403, Dheeraj Solitare, Building No.18, Chincholi Bunder Road, Malad (West), Mumbai 400 064. The case of the Applicant is that the two properties in question were given as a security to the State Bank of India. The principal borrower defaulted. The State Bank of India by an Assignment Agreement dated 19th March 2014 assigned its rights to the present Applicant. The initial security was created in 2005. The Judgment Creditor is an unsecured Creditor. It cannot seek to proceed against these properties as if the principal debtor continues to be the owner thereof. The claimant as an assignee from the State Bank of India has already initiated proceedings under SARFAESI Act. These facts are set out in the Affidavit in Support. There is no Affidavit in Reply.

3. The Chamber Summons is made absolute in terms of prayer clause (a).

(G. S. PATEL, J)