

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION**

CHAMBER SUMMONS NO.498 OF 2011

IN

CHAMBER ORDER NO.561 OF 2004

IN

EXECUTION APPLICATION NO.267 OF 2003

IN

SUMMARY SUIT NO.1089 OF 1999

Smt. Savitri M. Sanghvi (since deceased)

through her legal heirs Smt. Bharti

R. Khokhani and Ors.

....Plaintiffs

Vs.

Dr. Pankaj C. Gandhi

....Defendant

WITH

CHAMBER SUMMONS NO.525 OF 2011

IN

EXECUTION APPLICATION NO.267 OF 2003

IN

SUMMARY SUIT NO.1089 OF 1999

WITH

CHAMBER SUMMONS NO.526 OF 2011

IN

EXECUTION APPLICATION NO.267 OF 2003

IN

SUMMARY SUIT NO.1089 OF 1999

WITH

NOTICE OF MOTION NO.23 OF 2013

IN

INSOLVENCY PETITION NO.10 OF 2008

WITH

NOTICE OF MOTION NO.64 OF 2017

IN

INSOLVENCY PETITION NO.10 OF 2008

Ms. V.P. Deshmukh for respondent no.5 – Jyoti Gandhi.

Mr. Hrishikesh Chavan for insolvent – Pankaj Gandhi.

Mr. S.C. Naidu a/w. Ms. Aarti Kulkarni and Mr. Nilesh Parab I/b. Mr. Sachin Masurkar for plaintiff nos.5, 6(a) and 6(c).

Mr. Devang Sanghvi, legal heirs of one of the creditor and plaintiff in

summary suit no.1089 of 1999.

Mr. M.D. Narvekar, Official Assignee present.

Mr. Pankaj C. Gandhi, insolvent present in person.

CORAM : K.R.SHRIRAM, J.

DATE : 17th JULY 2018

P.C.:

1 Mr. Hrishikesh Chavan, advocate states that he has been appointed as Legal Aid counsel to appear on behalf of Dr. Pankaj C. Gandhi. Mr. Chavan further states that copy of the appointment order will be handed over by him to the office of Insolvency Registrar during the course of this week.

NOTICE OF MOTION (L) NO.25 OF 2018
IN
INSOLVENCY PETITION NO.10 OF 2008

2 Not on board. By consent of the parties, taken up for hearing.

3 Mr. Chavan, on instructions from Dr. Pankaj C. Gandhi, who is present in Court, seeks leave to withdraw the notice of motion. Mr. Naidu states that he has not been even served a copy of the notice of motion.

4 Be that as it may, notice of motion is dismissed as withdrawn.

NOTICE OF MOTION NO.23 OF 2013

1 Ms. Deshmukh, counsel for applicant states that this notice of motion was taken out by applicant when applicant was in real distress and had been thrown out of her matrimonial home but now applicant is comfortably placed thanks to the orders passed by the Hon'ble Supreme

Court of India. Ms. Deshmukh states that in view of the earlier situation, allegations were made against Official Assignee etc.

2 Now that applicant has stated that her problems have all been solved and she is comfortably placed thanks to the orders passed by the Hon'ble Supreme Court of India, this notice of motion does not survive.

3 Notice of motion accordingly disposed.

NOTICE OF MOTION NO.64 OF 2017

1 The allegation in this notice of motion is that respondent no.1 has committed contempt of Court by breaching the order dated 17th January 2017. According to petitioner, as per order dated 17th January 2017, respondent no.1 was directed by this Court to engage an advocate and not appear in person and that respondent no.1 personally appeared in Court thereafter and thereby has committed contempt of Court.

2 It is petitioner's case that on 17th January 2017, Mr. Devang Sanghvi, respondent no.1, informed the Court that he has already engaged the services of M/s. Divekar and Company to represent him and henceforth he will be represented by M/s. Divekar and Company. On 20th June 2017, respondent no.1 personally appeared and not through M/s. Divekar and Company and therefore, according to petitioner, respondent no.1 has committed contempt of Court.

3 Mr. Chavan raises another ground of alleged contempt that in the order dated 30th November 2005 in chamber summons no.966 of 2005 in summary suit no.1089 of 1999 the Court has opined that respondent no.1 could not have appeared as an advocate in the proceedings arising out of the summary suit no.1089 of 1999 and therefore, respondent no.1 is guilty of contempt.

4 I do not find any contempt. There is nothing in the notice of motion also to show that respondent no.1 has deliberately, willfully disobeyed any order passed by this Court.

5 Therefore, notice of motion dismissed. In view of the facts and circumstances of the case, I am not imposing cost on petitioner.

CHAMBER SUMMONS NO.525 OF 2011

1 This chamber summons is taken out for the following reliefs :

(a) that this Hon'ble Court be pleased to dismiss as the suit is filed by the said CA beyond the statutory limitation of three years and the same be also thrown out in-limine for want of jurisdiction of this Hon'ble Court as provided U/S 3 of the Limitation Act (36 of 1963) read with Sec 9-A of the Code of Civil Procedure 1908.

(b) that appropriate penal action be instituted against the said CA and the Respondents no.1 and 2, i.e., his then Advocates on record for having willfully playing fraud on Court and myself.

(c) that pending hearing and final disposal of this chamber summons, the further process in execution be stayed.

(d) that Notice alongwith Production warrant be issued on me to secure my presence in Court in the event I am lodged in Prison during the pendency of this Chamber Summons alongwith necessary directions as stated in para 15 of my Affidavit-in-support dated 21/03/2011 to this Chamber Summons.

2 The suit in question is summary suit no.1089 of 1999. At Exhibit “D” to the chamber summons, is an order of this Court passed by D.K. Deshmukh, J. (as he then was) on 10th December 2002, by which the summons for judgment was granted and the suit was decreed against applicant. Even a stay for execution of the decree was refused. Against this order, applicant had preferred an appeal being appeal (lodging) no.810 of 2003.

3 There is also an order dated 2nd March 2005 passed by the Division Bench dismissing the notice of motion that applicant had taken out. The appeal and notice of motion also came to be dismissed and the Division Bench refused to interfere with the order impugned. Therefore, the order dated 10th December 2002 has attained finality. This Court cannot sit in appeal over the said order and at this stage, this Court cannot hold that the suit, which has been decreed, was filed beyond time and has to be dismissed.

4 The other prayers sought in this chamber summons absolutely are either inconsequential or irrelevant and borders on absurdity.

5 Therefore, chamber summons dismissed. No order as to costs.

CHAMBER SUMMONS NO.526 OF 2011

1 The reliefs sought in this chamber summons are almost similar

to the reliefs sought in chamber summons no.525 of 2011.

2 For reasons as noted in the order passed today, i.e., 17th July 2018 in chamber summons no.525 of 2011, this chamber summons also is not maintainable.

3 Therefore, chamber summons dismissed.

CHAMBER SUMMONS NO.498 OF 2011

Stand over to 7th August 2018.

Gauri
Amit
Gaekwad

Digitally signed
by Gauri Amit
Gaekwad
Date:
2018.07.19
18:39:18
+0530

(K.R.SHRIRAM, J.)