

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

CHAMBER SUMMONS NO.1115 OF 2007

IN

EXECUTION APPLICATION NO.34 OF 2007

IN

ARBITRATION REFERENCE NO.42 OF 2004

Labh Investments and Anr.

...Applicants

Versus

Smt. Sonal Pratik Sanghvi

...Respondent

Pratik S. Shingvi & Anr.

**...Addl.
Respondents**

Mr. Gaurang Mehta a/w Rhea Mehta, for Applicant No.1.

Mr. Vijay Dighe i/b Nilesh Bhulikar, for Judgment Debtor.

Mr. Yogesh Ganohi, for Additional Respondent No.1.

CORAM : RIYAZ I. CHAGLA J.

DATE : 20 April 2018

ORDER :

1. The learned Counsel for the Applicants has drawn this Courts attention to an order passed by this Court on 24th June,

2008 whereby, order had been passed on the Chamber Summons granting prayer clauses (a), (b) and (e). Thereafter, further orders had been passed on 4th July, 2008 and 22nd August, 2008 in the Chamber Summons which pertained to the disclosure made under order XXI rule 41 of the Civil Procedure Code. The orders were carried in Appeal. By an order dated 3rd May, 2010, the Division Bench of this Court had by consent of parties set aside the orders dated 22nd August, 2008 and 4th July, 2008 and remitted back the Chamber Summons to the single Judge for denovo consideration and decision in accordance with law.

2. The learned Counsel for the Applicants submits that the order dated 24th June, 2008 which was also challenged was not interfered with by the Appeal Court. He accordingly submits that, the Chamber Summons is required to be disposed of in terms of the order dated 24th June, 2008. The learned Counsel for the Respondent/judgment debtor and the additional Respondent No.1, who is the husband of the

Respondent/judgment debtor are present. The learned Counsel for the Respondent/judgment debtor seeks time as the Chamber Summons 1115 of 2007 was coming up after several years.

3. The learned Counsel for the Applicants has also drawn this Courts attention to a Garnishee Notice filed in this Court which is a show cause notice to LIC to show cause as to why orders should not be passed attaching sums due to the Respondent/judgment debtor in their hands. He submits that Garnishee Notice should also be disposed off.

4. I have considered the submissions of the parties. I find by order dated 24th June, 2008 this Court had already adjudicated upon the Chamber Summons and made Chamber Summons absolute in terms of prayer clauses (a), (b) and (e). An appeal had been preferred and the Division Bench of this Court by an order dated 3rd May, 2010 set aside two subsequent orders dated 22nd August, 2008 and 4th July, 2008 passed in Chamber Summons and had remitted the Chamber Summons for denovo

hearing. I also find that, the 24th June, 2008 order had been challenged and the Appeal was not entertained. I also note that, a Garnishee notice had been issued to the LIC calling upon them to show cause why orders should not be passed to attach the sums due by Respondent/judgment debtor in their hands. I also have been informed that Registry had issued the Guarnishee Notice to the Additional Respondent No.2-LIC and pursuant to which they had been ordered to deposit the commission which they were paying the Respondent/judgment debtor in this Court so far they deposited the amounts in this Court after making adjustments for the same and a balance sum of Rs.9,88,809/- (as of 20th April, 2008) alongwith interest @12% per annum on the balance principal sum of Rs.7,58,871/- is still due and payable by the Respondent to the Applicant under the subject Award dated 13th September, 2004. A statement has been tendered to this Court which reveals that till 10th October, 2015 the amounts of commission received by the Applicants. Thereafter, no notice had been given to the Applicants or their Advocates of any further amount of

commission being deposited with the Prothonotary and Senior Master.

5. I therefore order that the Chamber Summons which had been remitted back be made absolute in terms of prayer clauses (a), (b) and (e) and that the Garnishee Notice directed against the LIC be made absolute. I do not find any merit in the application of the learned Counsel for the Respondent/judgment debtor who seeks time as the order has been passed on 24th June, 2008 by this Court in the Chamber Summons which has attained finality. I order and direct the additional Respondent No.2 LIC to continue to deposit from time to time the amount of commission as and when it becomes payable to the Respondent/judgment debtor with the Prothonotary and Senior Master of this Court and to notify the Advocate for the Applicants/judgment creditor. I also grant permission to the Applicants/judgment creditor to withdraw the amount as and when deposited by the LIC with the Prothonotary and Senior Master and adjust the same towards the dues under the subject

award.

6. The Chamber Summons and Garnishee Notice stands disposed off on the above terms.

[RIYAZ I. CHAGLA J.]