

Shephali

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
IN ITS COMMERCIAL DIVISION
JUDGE'S ORDER NO. 146 OF 2017
IN
CHAMBR SUMMONS NO. 85 OF 2017
IN
COMM EXECUTION APPLICATION (L) NO. 51 OF 2017
AND
CHAMBER SUMMONS NO. 85 OF 2017
IN
COMM EXECUTION APPLICATION (L) NO. 51 OF 2017
AND
COMM EXECUTION APPLICATION (L) NO. 51 OF 2017**

Prakash Ganpat Sawant

...Applicant

Versus

Ravindra Babaji Satam & Ors

...Respondents

Mr PG Sawant, *for the Applicant in person.*
Mr MP Jadhav, *AGP, for Respondent No. 3.*

CORAM: G.S. PATEL, J
DATED: 15th January 2018

PC:-

Judge's Order No. 146 of 2017:

1. Heard. The Judge's Order is thoroughly misconceived. It seeks that the plaintiff be granted leave under Section 2 of the

Maharashtra Vexatious Litigation (Prevention) Act 1971 (“**the MVL Act**”) to continue proceedings in a Chamber Summons in execution.

2. A very brief background is this: the applicant filed Pauper Petition No. 4 of 1996 in Suit No. 3993 of 1997. He sought to recover possession of an area of about 60 feet x 22 feet in a building called Guru Chhaya at Padmakar Jawale Marg, Dahisar (East), Mumbai 400 068. The Plaintiff said that he was conducting a business as Prakash Tea Centre from these premises and was also using a part of these as his residence.

3. On 18th June 1999, RJ Kochar J dismissed the suit. A decree was drawn up. The plaintiff filed Appeal No. 760 of 1999. That appeal was dismissed by YK Sabharwal CJ & SH Kapadia J (as they each then were) on 4th August 1999.

4. It is at this point that matters began to take a decidedly peculiar turn. The plaintiff then filed Execution Application (L) No. 421 of 1999 in ostensible ‘execution’ of this very appellate dismissal order. The Prothonotary & Senior Master held this to be not maintainable; quite correctly so. The plaintiff then filed a Judge’s Order No. 289 of 2003 in an unnumbered chamber summons. That Judge’s Order was rejected on 10th November 2003 by Dr DY Chandrachud J (as he then was). In that order, Dr Chandrachud J referenced an order of 10th June 2003 under the provisions of the MVL Act and a subsequent order of 26th June 2003 declining to grant the very leave that is now sought all over again.

5. In the meantime, the State filed Miscellaneous Petition No. 35 of 2003 in which the then learned Advocate General instituted proceedings under Section 2 of the MVL Act against the plaintiff. That Petition was made absolute on 25h November 2003 by Dr DY Chandrachud J and the Plaintiff was directed not to initiate any proceedings in this Court in respect of his Suit No. 3993 of 1997 without leave under Section 2 of the MVL Act being obtained.

6. The Plaintiff filed Appeal No. 40 of 2004 and this was dismissed on 14th January 2004 by RM Lodha and AM Khanwilkar JJ, as they each then were. The observations in that order are *inter alia* that the plaintiff was constantly abusing the process of this Court by filing one frivolous application after the other. Undeterred, the plaintiff filed a special leave petition and this was dismissed on 26th August 2013.

7. It does not end even at that. The Plaintiff then filed Judge's Order No. 40 of 2014 in Chamber Summons No. 114 of 2014 in a fresh Execution Application (L) No. 155 of 2014 seeking to obtain leave under Section 2 of the said Act. RD Dhanuka J dismissed that by his order dated 9th April 2014 and imposed costs of Rs 50,000/- on the Plaintiff. The Plaintiff filed Appeal (L) No. 258 of 2014. This was dismissed by the learned Chief Justice & MS Sonak J on 30th June 2014 setting aside the order of payment of costs. The plaintiff filed a Special Leave Petition against that order and this was dismissed on 1st December 2014.

8. Then the Plaintiff filed yet another Judge's Order No. 69 of 2015 in yet another Execution Application (L) No. 103 of 2014. This time, Mrs Roshan Dalvi J dismissed that Judge's Order on 17th June 2015 and imposed costs of Rs. 50,000/-. There followed a by now a predictable Appeal (L) No. 551 of 2015. Then there was another Judge's Order No. 128 of 2016 in a Notice of Motion in that appeal. The Chief Justice and MS Sonak J by an order dated 28th September 2016 dismissed the appeal and the Notice of Motion and imposed costs of Rs. 5,000/-. The plaintiff went up to the Supreme Court and his Special Leave Petition was dismissed on 24th April 2017.

9. The present Judge's Order is only the most recent in this extraordinary line of the applications, all without merit, all for exactly the same relief, all dismissed, all lost in appeal, all carried to the Supreme Court with the same result.

10. What the plaintiff is unable to explain is what it is precisely that he is seeking to put into execution. He keeps saying that his property was taken over by thugs and goondas. He seems not to comprehend that his suit for relief was *dismissed* and his appeal was also dismissed. He seems incapable of understanding that there is nothing whatever to put into execution.

11. In my view, this narrative history is sufficient to demonstrate that this Plaintiff is incapable of conducting his litigation. There are at least six rounds of litigation saying the same thing over and over again. I do not see why this Plaintiff should be permitted to appear

in Court unless a Committee of Registrars first certifies him capable of him doing so.

12. The Judge's Order is dismissed. There is no question of granting any relief. No costs.

Chamber Summons No. 85 of 2017:

13. The Chamber Summons seeks payment of a money decree and delivery of possession. These are the prayers sought in the Plaintiff's suit which was dismissed. The Chamber Summons is misconceived and is dismissed. No costs.

Commercial Execution Application No. 51 of 2017:

14. The execution application is also dismissed since, as I have noted, there is nothing at all to 'execute'.

15. I will note that though previous Judges have imposed costs, this has done nothing except providing the Plaintiff a ground for appeal. I believe I have been sufficiently made it clear that there is no executable decree in the hands of the plaintiff. For this reason I will, but only this once, refrain from imposing costs.

(G. S. PATEL, J)