

Atul

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
CHAMBER SUMMONS NO. 1044 OF 2017
IN
EXECUTION APPLICATION NO. 255 OF 1989
IN
BANGALORE SUIT NO. 1136 OF 1980**

Kapurchand S/o Poolchand	...Petitioner/ Applicant
<i>Versus</i>	
India Saree Museum & Anr	...Respondents

**Mr Bharat Vaishnava, I/b Bharat Vaishnava & Co., for the
Petitioner.**

Ms Kshama Bhandari, i/b Vishal Ghosalkar, for the Respondents.

**CORAM: G.S. PATEL, J
DATED: 8th October 2018**

PC:-

1. This Chamber Summons is thoroughly misconceived. The prayer is to direct the Respondent, Abhyudaya Cooperative Bank Limited, to release an amount of Rs. 2 lakhs with interest, covered by a bank guarantee given to the Prothonotary & Senior Master. Page 41 is a communication dated 19th October 2016 from the Abhyudaya Cooperative Bank Limited to M/s. Bharat Vaishnava &

Co. Here the Bank says that the Prothonotary and Senior Master invoked the bank guarantee for Rs. Lakhs by letters dated 13th January 2014 and 9th October 2014. Copies of these letters were endorsed to the Applicant. The Bank made remittances to the Prothonotary and Senior Master on 17th October 2014. The entire amount has been paid to the Office of the Registrar (Original Side). It is also clear that the original bank guarantee, duly discharged, was released by the Prothonotary and Senior Master to the Bank.

2. It is pointless, therefore, after these letters to file this Chamber Summons asking the Bank to release the amount of Rs. 2 lakhs. Demonstrably the Bank has already done so. If the Applicant was told by the Bank to get a court order against the bank, the Applicant ought to have satisfied himself by making appropriate enquiries with the Registrar (Original Side) / Prothonotary and Senior Master of this Court. Having paid out the amount of the bank guarantee to the Prothonotary & Senior Master, the Bank is absolved of its liability thereunder. It cannot be made to pay the amount twice over.

3. The Chamber Summons is dismissed. No costs.

4. Liberty to the Applicant to make enquiries with the Office of the Prothonotary and Senior Master.

(G. S. PATEL, J)