

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

NOTICE NO.1339 OF 2016

IN

EXECUTION APPLICATION NO.331 OF 2016

Reliance Capital Limited

....Claimant/Applicant

Vs.

Gurunanak Travels and Ors.

....Respondents

WITH

NOTICE NO.1649 OF 2016

WITH

CHAMBER SUMMONS NO.35 OF 2018

IN

EXECUTION APPLICATION NO.342 OF 2016

Ms. Aaushi Shah I/b. India Law for claimant/applicant.

Ms. Bhagyashri Mangale for respondents/applicants in CHS/35/2018.

CORAM : K.R.SHRIRAM, J.

DATE : 13th DECEMBER 2018

P.C.:

1 Ms. Shah states that as per the chamber summons taken out by respondents and admittedly so, parties had agreed to come to a one time settlement (OTS) of Rs.2,70,000/- as stated in the affidavit in support of the chamber summons but the OTS had a condition that in case the entire amount is not paid within the agreed period, the concession given will stand revoked and the entire decretal amount will have to be paid. The execution applications listed today, are part of a group of 11 execution applications filed by applicant against the same respondents. The remaining nine are as under :

(1) EXECUTION APPLICATION NO.2831 OF 2015

- (2) EXECUTION APPLICATION NO.2832 OF 2015
- (3) EXECUTION APPLICATION NO.344 OF 2016
- (4) EXECUTION APPLICATION NO.345 OF 2016
- (5) EXECUTION APPLICATION NO.346 OF 2016
- (6) EXECUTION APPLICATION NO.343 OF 2016
- (7) EXECUTION APPLICATION NO.347 OF 2016
- (8) EXECUTION APPLICATION NO.330 OF 2016
- (9) EXECUTION APPLICATION NO.341 OF 2016

The one time settlement of Rs.2,70,000/- if paid would have eliminated the need to file any of these eleven applications. It was the agreed amount for all applications together.

2 Ms. Shah, counsel for applicant states that in the affidavit in support of chamber summons admittedly only Rs.2,30,000/- has been paid and for the balance of Rs.40,000/- a vague statement is made that it was made on 30th December 2014 but the receipt is not traceable. Ms. Shah states that therefore, the concession stands revoked.

3 Ms. Mangale, counsel for respondents and applicants in chamber summons is also at a loss and is unable to explain or give any evidence to show that the outstanding amount of Rs.40,000/- has also been paid before the cut off date of December 2014. Even the affidavit in support is not giving any details as to who paid this amount of Rs.40,000/- in cash

to whom and where it was paid.

4 There is no affidavit in reply filed to the chamber summons though it was served long time ago. Therefore, the averments in the chamber summons are not controverted. Hence, I am *ex-facie* inclined to accept that the amount of Rs.40,000/- has been paid by applicants to the chamber summons.

5 Be that as it may, to give an opportunity to applicant to check its records, respondents are directed to deposit a sum of Rs.50,000/- with the Prothonotary and Senior Master, High Court, Bombay within two weeks from today.

6 Within four weeks from today, applicant will give inspection of all the receipt books for 30th December 2014 to respondents. If office copy of the receipt is found, this amount of Rs.50,000/- shall be returned to respondents. If there is not such receipt in any of the receipt books for 30th December 2014, applicant will be entitled to withdraw this amount of Rs.50,000/-. If no inspection is given of the receipt books for 30th December 2014, then in view of my observation that the averments have not been controverted, respondents will be entitled to withdraw this amount of Rs.50,000/- from the Prothonotary and Senior Master, High Court, Bombay and the entire decree of applicant will stand satisfied/adjusted.

7 Chamber summons accordingly stands disposed.
All 11 execution applications mentioned also stand disposed. So also the
notices.

(K.R. SHRIRAM, J.)