

Shephali

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY  
ORDINARY ORIGINAL CIVIL JURISDICTION  
EXECUTION APPLICATION NO. 41 OF 2013**

|                 |              |
|-----------------|--------------|
| Bhoormal K Jain | ...Applicant |
| <i>Versus</i>   |              |
| Creative Prints | ...Defendant |

**WITH  
EXECUTION APPLICATION NO. 38 OF 2013  
AND  
EXECUTION APPLICATION NO. 39 OF 2013  
AND  
EXECUTION APPLICATION NO. 40 OF 2013  
AND  
EXECUTION APPLICATION NO. 42 OF 2013**

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**Mr Vishal Kanade, i/b M Gawde, for the bidder.  
Mr Hemant Ghadigaonkar, for Ashok Faldesai, partner Defendant.  
Mr SD Chitgopekar, Deputy Sheriff, present.  
Mr Anil Bagwe, for the Claimant.  
Mr Kumarpal Jain, bidder present.**

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**CORAM: G.S. PATEL, J  
DATED: 24th January 2018**

**PC:-**

1. There is a private bidder, Mr. Kumarpal Jain who has come forward with a bid for the premises in question of Rs.1,17,37,000/- (Rs. One Crore Seventeen Lakhs Thirty Seven Thousand only). The premises are Unit No. 203, 2nd floor, Industrial Centre Premises CHSL at CS No.12, N.M. Joshi Road, Mumbai 400 011 and they admeasure about 85.91 sq. meters carpet area excluding the loft. There is a valuation report that puts the present market value at Rs.1,89,85,000/- (Rs. One Crore Eighty Nine Lakhs Eighty Five Thousand only). The bidder himself has premises in this very building on the third floor. I also find that the bid that is currently offered is sufficient to meet the entire decretal claim with interest computed till 16th January 2018, i.e. Rs.1,44,97,422/- (Rs. One Crore Fourty Four Lakhs Ninety Seven Thousand Four Hundred Twenty Two only) as also all society outstanding dues as of today computed at Rs.20,95,755/- (Rs. Twenty Lakhs Ninety Five Thousand Seven Hundred Fifty Five Only). The total is Rs.1,65,93,177/- (Rs. One Crore Sixty Five Lakhs Ninety Three Thousand One Hundred Seventy Seven Only). There would, thus, even if the bid is accepted as made, be a small surplus of approximately Rs 4 to 5 Lakhs after meeting the decretal claims and the society dues.

2. Mr. Kanade for the bidder submits that it would not therefore, be necessary to demand a higher bid because there is no purpose to which the additional amount could then be applied, the decretal claim and society dues being satisfied in full with a small surplus yet available. This submission deserves to be accepted. The bid is not significantly at variance with the reported market value.

3. Thus, the sale in favour of Mr. Kumarpal Jain of the premises in question at the price of Rs.1,70,37,000/- (Rs. One Crore Seventy Lakhs Thirty Seven Thousand Only) is confirmed.
4. The purchase price in full will be deposited with the Sheriff's office in the following manner. An amount of 25% will be deposited by Tuesday, 30th January 2018. The amount of Rs. 5 lakhs paid by a Bank Manager's cheque dated 5th January 2018 will be adjusted in this 25% (i.e., the 25% will include the amount of Rs.5 lakhs). The Sheriff will immediately proceed to deposit the cheque for Rs. 5 lakhs.
5. The remaining 75% will be deposited with the Sheriff's office by 1st March 2018.
6. The Sheriff will remit or transmit the amounts deposited with him to the office of the Prothonotary & Senior Master within 72 of his receiving the deposit.
7. Of the 25% so deposited, the Prothonotary & Senior Master will make payment on a proportional or *pro rata* basis to the decreed holder and the society. The amount paid to the decree holder will be applied towards part satisfaction to the decree in execution and towards part payment of the society's dues.
8. The balance amount of 75% will on deposit will be paid out by the Prothonotary & Senior Master so that it is sufficient to cover the decretal claim with interest and Society dues as of 1st March 2018.

The decree will then stand fully satisfied and will be got marked accordingly by 28th March 2018.

9. It is made clear that in default of payment of the balance 75%, the deposit of 25% will stand forfeited, but since I have directed a pay-out, the decretal claim and the society's claim will be reduced to the extent of the funds received.

10. On payment of the entire amount, the Prothonotary & Senior Master will issue the necessary sale certificate. The Sheriff will retain an amount of 1% (one percent) of the accepted bid as poundage.

11. In view of this the five Execution Applications listed in paragraph 4 of the Sheriff's report No. 05 of 2018 stand disposed of.

12. Liberty to the parties to apply.

13. All concerned to act on an authenticated copy of this order.

**(G. S. PATEL, J)**