

Sharayu Khot.

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

CHAMBER SUMMONS NO. 1099 OF 2017

IN

EXECUTION APPLICATION (L) NO. 380 OF 2009

IN

ARBITRATION NO. 112 OF 2009

L & T Finance Limited

**...Applicant/
Org. Plaintiff**

Versus

**Mother India Logistics & Minerals
Pvt.Ltd. & Ors.**

...Respondents

Ms. Shakuntala Joshi, a.w Ms. Jalpa Pithadia, i/by S.I. Joshi &
Co., for the Applicant.

CORAM : RIYAZ I. CHAGLA J.

DATE : 16 March 2018

ORDER :

1. The Applicant by way of this Chamber Summons

seeks a direction against Defendant No. 4 to submit the report to the Ministry of External Affairs, Union of India i.e. Defendant No. 3 regarding steps taken in compliance with the order of issuance of Red Corner Notice dated 3 February 2016 against Defendant No. 2. The Applicant further seeks direction against Defendant No. 3 to disclose the last known and found location/country of Defendant No. 2 and further direction against Defendant No. 4 to issue a request letter to the Central Bureau of Investigation, Interpol, New Delhi for issuance of Red Corner Notice against Defendant No. 2. Further direction is sought against Defendants No. 3 and 5 to issue and circulate Look Out Notice against Defendant No. 2 to all the airports in India and give sufficient publication about circulation of Look Out Notice and also submit compliance report of circulation of Look Out Notice before this Court.

2. The learned Counsel for the Applicant has pointed out that an order came to be passed by the Single Judge of this Court on 9 April 2013, wherein it was recorded that though non

bailable warrant has been issued as far back as on 3 May 2012 with a direction to the concerned police station to execute the same, no satisfactory steps were taken by the police station to execute the order and it appears that Defendant No. 2 had left the country and hence, the Commissioner of Police, Bangalore City was directed to conduct an enquiry into the matter and take appropriate action against the concerned police officers who were responsible for not executing the non bailable warrant against the Defendant No. 2 inspite of several orders passed by this Court and submit report of such enquiry to this Court. Defendant No. 2 has challenged order dated 2 August 2010 passed by this Court which had directed warrant of arrest to be issued against Defendant No. 2 and pursuant to which order dated 9 April 2013 came to be passed. By order dated 3 February 2016, the Division Bench of this Court dismissed the Appeal and a fresh warrant of arrest has been issued against Defendant No. 2. Police was directed to issue Red Corner Notice throughout the country and trace whereabouts of Defendant No. 2 through interpol. The Police Authority has thereafter forwarded

a report to the Prothonotary & Senior Master which states that Red Corner Notices are to be issued and executed by the Ministry of External Affairs. The Applicant appears to be aggrieved by the non-cooperative attitude of the Commissioner of Police Bangaluru and hence, moving this Court.

3. The learned Counsel appearing for the Applicant has tendered the Affidavit of Service which has been filed in this Court and in which it is mentioned that the Defendants No. 3, 4 and 5 have been duly served by Advocate's notice dated 1 January 2018 along with the amended Chamber Summons. The Affidavit also mentions that the notice was sought to be issued to Defendant No. 2 along with the amended Chamber Summons to be served through the speed post from the official website to the address of Defendant No. 2, but it was returned back by the postal authority with remark 'left'. The learned Counsel appearing for the Applicant therefore, states that all efforts have been made to try to serve the amended Chamber Summons along with the notice dated 1 January 2018 upon

Defendant No. 2.

4. I have gone through the order dated 3 February 2016 passed by the Division Bench of this Court wherein the directions were issued to the Police to issue Red Corner Notice throughout the Country to trace the whereabouts of Defendant No. 2 through Interpol. This Court also directed the issuance of fresh warrant of arrest against Defendant No. 2. I have also gone through the Affidavit of Service. I find that the Applicant has made all possible efforts to serve Defendant No. 2 with the amended Chamber Summons and Notice dated 1 January 2018. In the circumstances of the case, it would be just and necessary to issue the directions sought for in the Chamber Summons. Particularly, since the Applicant is only seeking directions of compliance with the order dated 3 February 2016.

5. I accordingly, make the Chamber Summons absolute in terms of prayer clauses (b), (c) and (c)(i).

6. Defendants No. 3 and 5 shall furnish the compliance report and circulation of Look Out Notice before this Court in the Execution Application (L) No. 380 of 2009 within a period of eight weeks.

7. Chamber Summons is disposed of in the above terms. There shall be no order as to costs.

[RIYAZ I. CHAGLA J.]