

Sharayu Khot.

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

CHAMBER SUMMONS NO. 50 OF 2019

IN

EXECUTION APPLICATION NO. 1338 OF 2018

Ramnaresh Mevalal Jaiswal

...Applicant

In the matter between

J. Madhavsingh & Co.

**...Plaintiff/
Judgment-Creditor**

Versus

Ajay Jaiswal

**...Defendant/
Judgment-Debtor**

Mr. Vinay Talwal, i/by Durgesh Jaiswal, for the Applicant.

Ms. Sushma Bhende, for the Respondent/original Plaintiff/
Judgment-Creditor.

CORAM : R.I. CHAGLA J.

DATE : 17 July 2019

ORDER :

1. The Chamber Summons has been taken out by the Applicant in execution proceedings seeking raising attachment

1/4
July 17, 2019

warrant dated 1st October 2018 in respect of the Flat No. 816, 8th Floor, Mamta Shakari Grah Nirman Sastha CTS No. 177, Vithal Mandir Vasahat, Jeerbai Wadia Road, Shiwree, Mumbai – 400 015 (“*the said flat*”).

2. The Affidavit in Reply dated 6th July 2019 is tendered by the Judgment-Creditor and is taken on record.

3. It is the contention of the learned Counsel for the Applicant that the said flat was to be transferred to the Applicant by the owner of the said flat and the Affidavit has been executed by the owner whereby it is stated that request is made to the Mumbai Municipal Corporation to transfer the said flat in the name of the Applicant. The learned Counsel for the Applicant also relies upon the Development Agreement which has been executed with the developer and which the Applicant is shown as the Constituted Attorney of the owner for redevelopment of the property including the said flat. Pursuant to the development agreement, the property has been

redeveloped. He had submitted that the ration card has been issued in the name of the Applicant who is shown as residing at the said flat. He further submits that the Application has been made to the Mumbai Municipal Corporation for transfer of the said flat being F/S/M/35, 4/9 in the redeveloped property in the name of the Applicant. He has relied on the electricity bill and maintenance bill issued in the name of the Applicant in respect of the said flat. He submits that the said flat is now owned by the Applicant and accordingly, applies for raising of attachment of the said flat.

4. Having considered the submissions as well as all the documents relied upon by the Applicant, it is apparent that the said flat has not yet been transferred in the name of the Applicant. There is an Affidavit of the owner requesting the Corporation to transfer the said flat in the name of the Applicant, but the Corporation has till date not acted upon the request. Although there are documents including ration card, electricity and maintenance bill issued in the name of the

Applicant in respect of the said flat, the Application made to the Corporation for transfer of the said flat has not yet been accepted by the Corporation. The said flat in the records of the Corporation still appears to be in the name of the owner.

5. Accordingly, the Chamber Summons seeking setting aside and for quashing of warrant of attachment dated 1st October 2018 in respect of the said flat i.e. Flat No. 816, 8th Floor, Mamta Shakari Grah Nirman Sastha CTS No. 177, Vithal Mandir Vasahat, Jeerbai Wadia Road, Shiwree, Mumbai – 400 015 cannot be granted. The Chamber Summons is dismissed with no order as to costs.

[R.I. CHAGLA J.]