

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

CHAMBER SUMMONS NO. 279 OF 2017
IN
EXECUTION APPLICATION (L) NO. 2198 OF 2016

Datamatics Global Services Limited

...Applicant/
Award Holder

Versus

ITEK Business Solutions Pvt. Ltd.

...Award Creditor

WITH
NOTICE OF MOTION NO. 995 OF 2018
IN
EXECUTION APPLICATION (L) NO. 2198 OF 2016

SEEPZ, Special Economic Zone

... Applicant

IN THE MATTER BETWEEN

Datamatics Global Services Limited

...Award Holder

Versus

ITEK Business Solutions Private Ltd.

...Award Debtor

.....

Mr.J. D'souza i/b. Bulwark Solicitors for the Applicant/ Award Holder.

Mr.M.S.Bhardwaj for the Applicant in Notice of Motion No. 995 of 2018.

Mr.N.A.Bandodkar, II Asst. Court Receiver is present.

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CORAM: R. I. CHAGLA, J.
DATE: 17TH OCTOBER, 2019

PC:-

1. By an order dated 11th June, 2019, this Court had granted prayer clause (b) in Chamber Summons No.279 of 2017 and directed the Court Receiver, who was appointed by this Court, to auction the movable and immovable properties of the Award Debtor towards satisfaction of the Award.

2. The Court Receiver had, by an order dated 7th December, 2018, taken physical possession of the property i.e., Unit No. 177 A-SDF VI, Ground Floor, SEEPZ SEZ, MIDC Area, Andheri (E), Mumbai 400 096. This on the ground that the said property was subleased to the Award Debtor. In fact, there was a statement made by Mr.Mahesh Yadav, Deputy Development Commissioner-cum-Estate Manager, Development Commissioner, SEEPZ, Special Economic Zone, Andheri (East), Mumbai 400 096 in his affidavit dated 18th October, 2017 filed before this Court that the Court Receiver could take possession of the said property along with movable articles lying in them with immediate effect and put their lock and key. This has been recorded in the order dated 3rd

November, 2017 passed by this Court. Considering that by an order dated 7th December, 2018, the Court Receiver had taken physical possession of the said property and by a subsequent order dated 11th June, 2019, the Court Receiver appointed by this Court was directed to auction the said property towards satisfaction of the Award. It is now stated by the learned Counsel for the Award Holder that the sublease, which had been granted in favour of the Award Debtor had expired and this was prior to the said orders having been passed. This had not been pointed out to this Court by the erstwhile advocate, who was representing the Award Holder and upon the new advocate coming on record, this was observed and accordingly, it has now been mentioned to this Court. It would be therefore appropriate to recall the said orders dated 7th December, 2018 and 11th June, 2019 by which the Court Receiver had taken physical possession of the said property and who was directed to auction the said property towards satisfaction of the Award. This, considering that the Award Debtor has no right in the said property, as the sublease granted in favour of the Award Debtor had lapsed prior to the said orders being passed.

3. Accordingly, the said orders dated 7th December, 2018 and 11th June, 2019 passed by this Court are recalled. The Court Receiver is directed to handover possession of the said property to the Development Commissioner, SEEPZ, Special Economic Zone, Andheri (East), Mumbai 400 096 within a period of four weeks from the date of this order. The Court Receiver, who had been appointed for the purpose of auction of the said property, is accordingly discharged, subject to payment of the costs and charges to be borne by the Award Holder.

4. In so far as the movable property, which is lying in the said property is concerned, this shall be handed over by the Court Receiver to the Development Commissioner, SEEPZ, Special Economic Zone, Andheri (East), Mumbai.

5. The Chamber Summons is accordingly disposed of.

6. The Notice of Motion No. 995 of 2018, which has been taken out by SEEPZ, for recovery of dues of SEEPZ from the Award Debtor cannot be entertained in the Execution Application (L) No. 2198 of 2016 and it would be appropriate for SEEPZ to take out

their own Execution Application for recovery of dues payable to them by the Award Debtor.

7. Accordingly, Notice of Motion No. 995 of 2018 is disposed of.

(R. I. CHAGLA, J.)