

Shephali

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
CHAMBER SUMMONS NO. 246 OF 2016
IN
EXECUTION APPLICATION NO. 834 OF 2015

The Cosmos Co-op Bank Ltd	...Claimant
<i>Versus</i>	
Nayana Plastics Pvt Ltd	...Respondents
<i>And</i>	
Sonalben S Shah	...Applicant

Mr Prathamesh Kamat, i/b Alok Mishra, for the Applicant.
Mr Joel Carlos, i/b Vijay B Chavan, for the Claimant.

CORAM: G.S. PATEL, J
DATED: 2nd May 2019

PC:-

1. The Applicant seeks to set aside an attachment dated 22nd April 2015 levied on Flat No. 202, Asha Niketan, Baptisha Road, Vile Parle (W), Mumbai 400 056. She claims in the Affidavit in Support that this flat is her property. She is in actual physical possession of it. She originally purchased a 1/3rd undivided right, title and interest in the flat by an agreement dated 20th June 1995. At that time, Respondent No. 4, one of the Award debtors, also purchased a 1/3rd undivided right in the said flat. The remainder

was bought by one Gunwantiben N Shah by an another agreement of that date. Thereafter, Respondent No. 4 and Gunwantiben made Gift Deeds dated 11th February 2012 transferring their respective rights in the flat in favour of the Applicant. These Gift Deeds were registered on 14th February 2012 and 22nd February 2012. The Applicant thus become the sole owner of the flat. The arbitration reference itself was filed some time in 2012. The Award was made on 3rd July 2014. As on the date of the Award, therefore, the flat was not an asset of any of the Judgment Debtors and no part of it was such an asset.

2. In this view of the matter, the Chamber Summons is made absolute in terms of prayer clauses (a) and (b).

(G. S. PATEL, J)