

Shephali

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
CHAMBER SUMMONS NO. 1061 OF 2015
IN
EXECUTION APPLICATION NO. 932 OF 2013
WITH
RESTORATION APPLICAITON NO. 784 OF 2015
IN
CHAMBER SUMMONS NO. 1061 OF 2015
IN
EXECUTION APPLICATION NO. 932 OF 2013**

Mavji Kanji Pasad	...Claimant
<i>Versus</i>	
Yogeshg Virsen Ganjawala Ors	...Respondent
<i>And</i>	
Jyoti Charitable Trust	...Applicant

Mr Suraj Gupte, i/b Sameer Tendulkar, for the Applicant in Chamber Summons.

Ms Mittal Savla, i/b PM Shah, for the Claimant.

Ms Neeta Solanki, for Respondents Nos. 1, 4 to 6.

**CORAM: G.S. PATEL, J
DATED: 13th March 2019**

PC:-

1. The Chamber Summons is by a Public Charitable Trust to raise an attachment levied on Gala No. C 36, third floor, Shri Ram Industrial Premises Cooperative Society Ltd., GD Ambedkar Marg, Wadala, Mumbai 400031. This attachment was levied in Execution Application No. 932 of 2013. The Claimant obtained this attachment in execution of an Award dated 27th August 2012.

2. The application states that the premises belong to the Jyoti Charitable Trust, a registered public charitable trust. It gave these on leave and license to 7th Respondent, a firm of builders, under an Agreement dated 18th September 2014. The Award Holder is wholly unaware of this. It seem to have proceeded against the premises only because 7th Respondent was found there. Being found in a place does not mean that that property can be attached or proceeded against in execution. Claimants in execution are required to take at least a minimal amount of care and make basic enquires before they put third parties to trouble in this fashion.

3. This is the last time I will make an order of this kind without an accompanying order of costs. In matter after matter, I find that because Award Holder has blindly levied execution without making any kind of minimal enquiry, innocent third parties are forced to come to Court, spend money and time, and often wait endlessly while the attachment continues.

4. The Chamber Summons is made absolute in terms of prayer clause (a).

5. The attachment levied is raised forthwith.
6. A copy of this order will be forwarded by the Advocates for the Applicants to the Deputy Sheriff.

(G. S. PATEL, J)