

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

**CHAMBER SUMMONS NO. 713 OF 2019
IN
EXECUTION APPLICATION NO. 884 OF 2018**

Tarachand Chammpalal Jain	...	Applicant/Plaintiff
Versus		
Vinayak G. Kanade & Anr.	...	Defendants

Mr. Ramesh Jain for the Applicant/Plaintiff.

CORAM : R.I. CHAGLA, J.

DATED : 9th JULY, 2019.

P.C. :

1 The learned Counsel for the Applicant by this Chamber Summons seeks necessary orders from this Court ordering the Sheriff of Bombay do forthwith execute the consent decree by removing the Judgment Debtors/Defendants together with all the movables and any person or persons occupying the suit premises viz. Flat No.101, B-Wing, 1st Floor, Rambha Tower, Gangawadi, Ghatkopar (W), Mumbai-400 086, and including by taking forcible possession of the same by breaking open the lock or locks found thereon in the presence of two Panchas with necessary Police assistance rendered to the Bailiff of the Sheriff.

2 The learned Counsel for the Plaintiff has relied upon the report of the Bailiff wherein it is stated that pursuant to the warrant of possession dated 11.05.2018 issued by the Prothonotary and Senior Master, High Court, Bombay, the Bailiff and Clerk attached to the office of the Sheriff of Mumbai, went along with the representative of the Plaintiff on 02.07.2018 for executing the warrant of possession upon Defendant No.1 for delivering to the Plaintiff possession of the subject premises. It is mentioned in the report that the subject premises is in 'B' Wing and this had not been mentioned in the original warrant of possession. Upon reaching the subject premises, the wife of Defendant No.1 was present and upon disclosure of identity and purpose of visit and showing the original warrant of possession with request for vacation of the suit premises and compliance with the order of this Court, the wife of Defendant No.1 refused to vacate the suit premises in order to deliver the same to the Plaintiff. Accordingly, the warrant of possession could not be executed upon Defendant No.1. The Applicant has, therefore, sought for necessary police assistance to the Bailiff of the Sheriff as well as the Plaintiff for execution of the consent decree.

3 Having considered the report of the Bailiff, in my view this is a fit case for grant of police assistance to the Bailiff and Plaintiff for execution of the consent decree by taking possession of the subject premises.

4 Accordingly, the Chamber Summons is made absolute in terms of prayer clause (a).

(R.I. CHAGLA, J.)