

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

CHAMBER SUMMONS NO. 1203 OF 2018

**IN
EXECUTION APPLICATION NO. 237 OF 2014**

Reliance Infrastructure Ltd.
(formerly Reliance Energy Ltd.)

... Claimants/Applicants/
Decree Holder

Versus

Municipal Commissioner & Ors.

... Respondents

And

Aarti Pandey Ahir

... Applicant/Obstructionist

Ms. Anjali Chandurkar a/w Mr. Tushad Kakalia, Mr. D.J. Kakalia and Mr. Paresh Patkar i/b Mulla and Mulla and Craigie Blunt and Caroe for the Decree Holder.

Mr. Sagar Patil for the Respondent -M.C.G.M.

Mr. V.R. Patil for the Obstructionist.

CORAM : R.I. CHAGLA, J.

DATED : 13th SEPTEMBER, 2019.

P.C. :

1 There is no merit in the application filed by the Obstructionist.

2 Despite several opportunities given to the obstructionist, the obstructionist still applies for time on the ground that a new Advocate has been appointed. This application is made only to delay the execution of

the decree which had been passed several years ago. No further time can be granted to the obstructionist.

3 By an order dated 06.09.2019 it was made clear that the application of the obstructionist deserves to be dismissed in the same manner in which the Chamber Summons No.1406 of 2018 has been dismissed. This Court in the said order had by referring to the previous orders in the matter where similar application was made by the Obstructionist had held that the matter cannot be re-agitated by the obstructionist and the only attempt being made by obstructionist is to prevent execution of a decree which was passed several years ago, i.e. on 28.06.1979.

4 The same stand has been taken in this application as taken in the Chamber Summons No.1406 of 2018 that the Survey No.109 is not related to the proceedings which had been the subject matter of the decree passed several years ago. In fact it was made clear in the said order dated 06.09.2019 that the stand taken by the obstructionist as to whether Survey No.109 is different from final plot No.102 had been concluded by an order passed by Karnik J. in the Pandey's family First Appeal. Paragraph 3 of the said order read thus :

“A plot of land bearing Final Plot No.102, Survey No.109, Hissa No.4 (City Survey No.33 part), admeasuring about 874 sq. yds. or thereabout (for short ‘the suit property’) was purchased by Burjor Navrozji Wadiwala from Avelin Gustin D’Souza under a sale deed dated 30th April 1946 registered in the office of the Sub-Registrar at Sr. No.489 of the year 1946 (Exhibit B).

5 It has been recorded in the order of G.S. Patel, J. dated 09.02.2018 that nearly 40 years after this Court passed decree on 28.06.1979, the allottee/ Decree Holder herein still does not have possession of final plot No.102. An Appeal had been carried all the way to the Supreme Court from the decree dated 28.06.1979 by the Pandey family, which was dismissed. Thus, the decree of this Court dated 28.06.1979 had attained finality.

6 Accordingly, this Chamber Summons deserves to be dismissed on the same findings as arrived at by this Court in the said order dated 06.09.2019 passed in Chamber Summons No.1406 of 2018.

7 Chamber Summons is accordingly dismissed with no order as to costs.

(R.I. CHAGLA, J.)