

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY AND ORIGINAL CIVIL JURISDICTION
CHAMBER SUMMONS NO.717 OF 2013
IN
EXECUTION APPLICATION NO.1258 OF 2015**

L & T Finance Limited	..Claimant/Applicant
Vs.	
Mohd. Dilshad (Borrower) & Anr	..Respondents

Ms Priya Rita a/w Mr. Omkar Dalvi I/b Disha Karambar & Associates for
Claimant/Applicant
None for Respondents

**CORAM : K.R.SHRIRAM, J.
DATE : 7th FEBRUARY, 2019**

P.C.:

1 This is the matter where respondents are playing truant with the court.

2 On 11th June 2014, respondents were directed to file affidavit of disclosure, under Order 21 Rule 41 and Section 51 of the Civil Procedure Code, 1908.

 On 19th December, 2014, bailable warrant was issued against respondent no.1. As against respondent no.2, the order was directed to be pasted at the last known address.

 On 9th November, 2017 and 17th November 2017, none appeared and the matter was stood over.

 On 12th April 2018, non bailable warrants were issued against respondent nos.1 and 2, returnable on 5th June 2018.

On 18th June, 2018, the following order came to be passed:

“1. In this matter, a non-bailable warrant has been issued. Thereafter in the May 2018 court recess, this was cancelled upon the Defendants’ Advocate mentioning the matter before the vacation Judge. None is present for the Defendants today.

2. As a final opportunity, list the Chamber Summons on 25th June 2018. I expect the two Defendants/Respondents and their Advocate to be present on that day, failing which I will issue fresh non-bailable warrants.”

On 25th June 2018, the following order came to be passed

“1. The complaint that the Judgment Debtor has not been served is demonstrably incorrect. There is an order of RD Dhanuka J made as long ago as on 11th June 2014 noting that the 1st Respondent has refused to accept service.

2. The 2nd Respondent is the guarantor. He also has been served.

3. So far as Respondent No. 1 is concerned, he is present in Court. He has been served. His Advocate is present. As a courtesy and in order to save time, his Advocate will be supplied with a spare copy by Ms Karambar’s office.

4. There is a previous order of disclosure of all assets and by this I mean every asset without exception, whether movable or immovable and including statements of all bank accounts, tax returns etc. As a final opportunity, this Affidavit of Disclosure to be filed and served on or before 6th July 2018.

5. List the matter for orders on 16th July 2018.”

3 Despite these orders, respondents have not complied with the directions given by this court.

4 In the circumstances, chamber summons is allowed in terms of prayer clause (c) which reads as under:-

“(c) that the respondents be detained in the civil prison as per Order 21 Rule 41 Sub-rule-3 of the Code of Civil Procedure for non-compliance of the order passed by this Hon'ble Court in terms of prayer clause (b) hereinabove.”

5 Respondents be detained in civil prison for three months as per Order 21 Rule 41 Sub-rule-3 of Civil Procedure Code, 1908. If in the meanwhile respondents pay or deposit the decretal amount, then respondents need not be detained in civil prison or be released forthwith as the case may be.

6 Chamber summons accordingly disposed.

(K.R. SHRIRAM, J.)