

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

CHAMBER SUMMONS NO.823 OF 2013

IN

EXECUTION APPLICATION NO.172 OF 2015

L and T Finance Limited

....Applicant/Plaintiff

Vs.

Mr. Putul Maity and Anr.

....Defendants

Ms. Nikita Pawar I/b. S.I. Joshi and Company for applicant/claimant/
plaintiff.

None for defendants.

CORAM : K.R.SHRIRAM, J.

DATE : 25th JANUARY 2019

P.C.:

1 Defendant no.2 has not been served since defendant no.2 is not traceable. Therefore, chamber summons dismissed as against defendant no.2 with liberty to approach the Court as and when defendant no.2 is traced.

2 So far as defendant no.1 is concerned, Ms. Pawar relies upon an affidavit of one Sitaram Sawant affirmed on 15th May 2018 to submit that defendant no.1 was served on 25th April 2018. None present for defendant no.1 though served.

3 Therefore, chamber summons is allowed and accordingly disposed in terms of prayer clause – (a) which reads as under :

(a) that the defendants be directed to deposit decretal amount a sum of Rs.10,52,865.92 with further interest on Rs.14,00,020.00 from 02.08.2013 @ 24% p.a. till payment and/or realisation thereof.

4 If defendant no.1 does not deposit the decretal amount within four weeks from today, then prayer clauses – (b) and (g) will get activated and the same read as under :

(b) that the defendants abovenamed be required by an order of this Hon'ble Court to file their affidavit stating particulars of their properties etc., as provided under Order 21 Rule 41 of the Code of Civil Procedure, 1908 since the decree/award dated 10.12.2012 passed by the learned Arbitral Tribunal has remained unsatisfied for more than 30 days from the date of its passing;

(g) that the defendants be directed to disclose their means on affidavit for satisfying the decree of the plaintiffs under execution as per Section 51 of the Code of Civil Procedure.

5 If these disclosures in terms of prayer clauses – (b) and (g) are not filed within eight weeks from today, then prayer clauses – (c) and (h) will get activated which read as under :

(c) that the defendants 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;

(h) that the defendants be arrested and detained in civil prison as per the provisions of Section 51 of the Code of Civil Procedure.

6 Plaintiff shall deliver this order upon defendant no.1 by hand delivery apart from other modes of delivery.

7 Plaintiff to take further steps in execution within four weeks from today, failing which the execution application will stand dismissed

without further reference to this Court.

8 All to act on authenticated copy of this order.

(K.R. SHRIRAM, J.)