

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

**NOTICE OF MOTION NO. 2315 OF 2019
IN
CHAMBER SUMMONS NO. 544 OF 2013
IN
EXECUTION APPLICATION NO. 484 OF 2011**

Sanjay S.Agarwal & Ors.

...Applicants /
Original Judgment Debtors.

IN THE MATTER BETWEEN

Citi Financial Consumer Finance
India Ltd.

...Claimant & Award
Creditor/ Assignor

Versus

Sanjay S.Agarwal & ors.

...Judgment Debtors

AND

Kotak Mahindra Bank Ltd.

...Applicant/ Assignee
(Applicant in CHS/544/2013)

.....
Mr.Minesh K. Shah i/b. Mr.Niyam Bhasin for the Judgment
Debtors/ Applicant/ Original Defendant.
Ms.Akshata Teli a/w. Ms.Juhi Bhogale i/b. O.M.Gujar Law
Chambers for the Decree Holder.
.....

**CORAM:
DATE:**

**R. I. CHAGLA, J.
17TH OCTOBER, 2019**

PC:-

1. This Notice of Motion has sought recalling, setting aside, quashing and vacating the impugned order dated 5th April, 2018 passed in Chamber Summons No. 544 of 2013.

2. By the said order dated 5th April, 2018, this Court had on merits found it fit to grant the necessary relief to the Applicant in

the Chamber Summons by bringing 'Kotak Mahindra Bank Ltd.' in the place of 'Citi Financial Consumer Finance India Ltd' as per schedule to the Chamber Summons. This was by virtue of the Deed of Assignment executed between the decree holder and 'Kotak Mahindra Bank Ltd.' wherein the receivables along with underlying security were assigned by the original decree holder to 'Kotak Mahindra Bank Ltd.' In Schedule I of the Deed of Assignment, in particularly serial No. 15, the names of the judgment debtors appeared.

3. It was apparent from the Deed of Assignment that the receivables had been assigned to 'Kotak Mahindra Bank Ltd'. This Notice of Motion would thus not be maintainable for recall of the impugned order and it would be appropriate for the Applicants, if aggrieved by the said order, to challenge the said order. All contentions of the Applicants as to challenge the Deed of Assignment are kept open. The Notice of Motion taken out in the Chamber Summons seeking recall of the order dated 5th April, 2018 is rejected. The Notice of Motion is accordingly disposed of.

(R. I. CHAGLA, J.)