

psv

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

**CHAMBER SUMMONS NO.1000 OF 2017
AND
EXECUTION APPLICATION NO.65 OF 2018**

Minal Kirit Makwana & Ors.	Applicants
In the matter between	
Minal Kirit Makwana & Ors.	Claimants
V/s.	
Pravin Dhirajlal Makwana & Ors.	Respondents

Mrs.Uma Wagle for Applicants.

CORAM : G.S. KULKARNI, J.

DATE : 26th NOVEMBER, 2019

P.C.:

Learned Counsel for the applicants informs that in pursuance of the order dated 19 November 2019, notice that the above chamber summons would be taken up for hearing today, was issued to the respondents and the same has been received and affidavit of service to that effect would be placed on record during the course of the day. On 19 November 2019 the Court as a matter of last chance to the respondents to remain present in the present proceedings, had adjourned the hearing for today.

2. The chamber summons is for direction to respondent Nos.1 and 2 to disclose their properties as per the provisions of Section 51(e) of the Code of Civil Procedure as the award creditors are not aware of the movable and immovable property belonging and in possession of respondent Nos.1 and 2. As also the applicants seek direction against respondent Nos.1 and 2 restraining them from disposing of their assets.

3. The disputes between the applicants and the respondents were referred for adjudication of a sole arbitrator. The learned sole arbitrator passed an award dated 7 July 2016 adjudicating the disputes between the parties whereby the claims as made by the applicants were allowed. As the award was not honoured and satisfied, the present execution application came to be filed. As per the details as set out in column "G" of the execution application, the applicants state that an amount of Rs.98,16,824.96 is due and payable by the respondents/ judgment debtors to the applicants/award creditors.

4. It is also contended that the applicants are suffering a serious prejudice on account of non-payment. It is stated that the applicant No.1 is a widow and has two dependent children urgently requiring funds and thus it is essential that the award is executed at the earliest. The respondents have chosen not to appear. There is no opposition to the present chamber summons.

5. Having heard learned Counsel for the parties and having perused the averments as made in the affidavit in support of chamber summons and the execution application, in my opinion, it is in the interest of justice that the chamber summons is allowed. It is accordingly allowed in terms of prayer clauses (a) and (b) which reads thus:-

"a) This Hon'ble Court may be pleased to direct the Respondent No.1 and 2 to disclose their properties as per the provision of Section 51 of Civil Procedure Code as the applicants/Orig. Claimants are not aware of the moveable and the immoveable property belonging and in possession of the Respondent No.1 and 2.

b) This Hon'ble Court may be pleased to direct the Respondent No.1 and 2 for disclosing their assets."

6. Necessary disclosure affidavit be placed on record by the respondents within two weeks from today. In case of failure to make such

affidavit, respondent Nos.1 and 2 are directed to remain present in the Court on the adjourned date of hearing of the execution application.

7. The chamber summons is allowed in the aforesaid terms. No costs.

8. Parties to act on an authenticated copy of this order.

9. Learned Advocate for the applicants is permitted to serve a copy of this order on the respondents by all permissible modes and place on record affidavit of service within one week from today.

10. Let the execution application be listed for hearing on 10 December 2019.

[G.S. KULKARNI, J.]