Shephali

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
IN ITS COMMERCIAL DIVISION
NOTICE OF MOTION NO. 84 OF 2017
IN
COMMERCIAL SUIT NO. 18 OF 2015
WITH
COURT RECEIVER'S REPORT NO. 85 OF 2019

SICOM Investments & Finance Ltd ...Plaintiff
Versus
Sarth India Ltd & Ors ...Defendants

Mr Kunal Chheda*, i/b Utangale & Co, for the Plaintiff/ Applicant.*
Mr VA Sonpal*, Special Counsel, with Mrs Jyoti Chavan, AGP, for the Respondent (Sales Tax).*
Mrs Kavita Y Ambekar*, Ist Assistant to the Court Receiver present.*

CORAM: G.S. PATEL, J
DATED: 24th April 2019

PC:-

1. The present Motion is by the Plaintiff SICOM Investments and Finance Limited. The Respondent is the Commercial Tax Officer, Entry Tax, Nagpur. The only relief in the Motion is for a restraint against the CTO from proceeding against a residential apartment No. SP II/501, Springdale II, Rajnagar, Nagpur. SICOM claims that this flat was mortgaged to it on 27th April 2011. It alleges that the CTO sought to move against this flat saying that it was an asset of one Vivek Baliram Waretwar as a partner of a firm that owed entry tax. On 8th January 2019 I asked the Receiver to obtain a valuation.

2. There is the Receiver's Report. It says that the flat in question at Rajnagar was sold by Canara Bank, Nagpur Branch on 5th January 2019 to one Mohammed Junaid Ismail. The flat is currently locked and one Altaf Ahmed is in occupation. I may note that there are other properties including a plot of land at Pratap Nagar Square. Of this land too there is another claimant one Abhimanyu Chawla who has his board on the premises. The only asset in SICOM's possession is an office at Unit No. 2, Nexus Point Commercial Complex.

3. Evidently, as far as the residential flat is concerned, the Motion is entirely infructuous. It may have been overtaken by subsequent events, for the Motion was filed in December 2016 and the Canara Bank sale certificate is of 5th January 2019. Obviously no reliefs can be granted on this Motion. I will, however, make it clear that SICOM is at liberty to pursue such remedies as are available to it in law against Canara Bank in regard to this sale. Similarly the Commercial Tax Office is also at liberty to pursue whatever remedies are available in law since Mr Sonpal says the only reason that the State Revenue could not move against the flat was because of injunction against it of 20th December 2016. However, now that there is a confirmed sale by Canara Bank the remedies of both SICOM and the Commercial Tax Department lie elsewhere, not in these proceedings against this flat.

4. The Court Receiver's Report and the Motion are both disposed of in these terms.

(G. S. PATEL, J)