

Arun

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
CHAMBER SUMMONS NO. 1358 OF 2018
IN
EXECUTION APPLICATION NO. 942 OF 2018

Visible Chits (Maharashtra) Pvt Ltd	...Plaintiff
<i>Versus</i>	
Ashish Tandon & Anr	...Defendants
<i>And</i>	
Reliance Home Finance Ltd	...Applicant

**Mr MB Kale, with Ms Juhi Bhogle, i/b OM Gujar Law Chambers, for
the Plaintiff.**
Mr SD Chitgopekar, Deputy Sheriff, present.

CORAM: G.S. PATEL, J
DATED: 4th April 2019

PC:-

1. None for the Decree Holder. The application is by Reliance Home Finance Limited. It says that it has security by way of a mortgage over Flat No. 1902, Lantana Nahar, Amrit Shakti, Chandivali Farm Road, Chandivali, Andheri (East), Mumbai 400072.
2. The Chamber Summons and Affidavit in Support were served twice in November 2018 and again thereafter in March 2019.

There are Affidavits of Service. None appears for the Decree Holder. It is clear that if the property is subjected to a mortgage, then an unsecured creditor cannot move against it so as to defeat the rights of the secured creditor.

3. The Chamber Summons is made absolute in terms of prayer clause (a).

4. The warrant of attachment in respect of Flat No. 1902, Lantana Nahar society, Amrit Shakti, Chandivali Farm Road, Chandivali, Andheri (East), Mumbai 400072, is raised and set aside.

5. I am told that the Applicant has already taken possession and in fact conducted an auction sale. The Lantana Nahar society is not granting an no objection certificate because of this warrant of attachment. A copy of this order is to be communicated by the Deputy Sheriff to the chairman and secretary of that society.

(G. S. PATEL, J)