

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

CHAMBER SUMMONS (L) NO.1918 OF 2018

IN

COMM.EXECUTION APPLICATION NO.51 OF 2017

IN

ARBITRATION CASE NO.1 OF 2014

M/s.Kapur Films)....Claimant

V/s.

M/s.Invincible Entertainment Pvt. Ltd. & Ors)....Respondents

And

Bank of India)....Applicant

None for claimant.

Mr.O.A.Das for the applicant.

Mr.Jignesh Shah for respondent nos.1 to 3.

Mr.Kapil P.Shetye I/by Y.B.Dandekar for LIC Housing Finance Ltd.
(Intervener).

CORAM : K.R.SHRIRAM,J

DATE : 14.1.2019

P.C.:-

1. In the impugned order dated 6.12.2018 at paragraph-15 the Commissioner for taking accounts has observed “Till date, no third party claims have been received by this office, despite publication of notice and there are no challenges or any proceedings filed to the Order of Sale of the movable as well as immovable properties.....”

2. On 5.9.2018, however, the applicant herein has appeared before the Commissioner for taking accounts. On that date the Advocate for the applicant herein has given an undertaking to file Vakalatnama, which it appears, has not been filed. Mr.Das for the applicant states that the applicant-Bank of India has also affirmed an affidavit dated 24.9.2018, to be filed before the Commissioner for taking accounts but as his information was the next date was 20.12.2018, they did not file the affidavit in the records of the Commissioner for taking accounts.

3. Therefore, it will meet the interest of justice, if the order dated 6.12.2018 is set aside and the matter is remanded to the Commissioner for taking accounts for *de novo* hearing. The Commissioner shall also consider the affidavit affirmed by Bank of India on 24.9.2018.

4. Chamber Summons accordingly stands disposed.

(K.R.SHRIRAM,J)