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

CHAMBER SUMMONS NO. 130 OF 2018
WITH
CHAMBER SUMMONS NO. 795 OF 2019
IN
COMM. EXECUTION APPLICATION NO. 407 OF 2018

Viacom 18 Media Pvt. Ltd. ...Applicant/Award Holder (Org. Claimant)

V/s

B. R. Films ...Respondent/Jug. Debtor

Mr. Ashish Kamat with Mr. Vikramaditya Chavan i/b Naik Naik & Co., Advocate for applicant.
Mr. Dharam Jumani with Mr. Nachiket Yagnik i/b DSK Legal, Advocate for respondent.
Mr. Brian D'Lima, Advocate for applicant in CHS/795/19.
Mr. Vaibhav Bhure with Mr. Chetan Alai, Advocate for Auction Purchaser.
Mr. D. N. Kher, Court Receiver.
Ms. Saloni Shah i/b DSK Legal for defendant no.4.

CORAM : G.S. KULKARNI, J.
DATE : 20 FEBRUARY 2020

P. C.

An application is made by the Auction purchaser (Mr. Zohaib Mansuri) for handing over the premises as purchased by him in the auction. The premises are as described in paragraph 3 of the consent terms entered between the applicant/award holder (Viacom 18 Media Pvt. Ltd.) and the respondent/judgment debtor (B.R. Films). All formalities in regard to the sale now stand completed.

2. By an order dated 3 September 2019 passed by this court (Coram : R. I. Chagla, J), Commercial Execution Application no. 1907/18 was disposed of in terms of the consent terms as entered

between the parties to the said proceedings. However, the above connected Execution Application no. 407/18 was kept pending. Learned Counsel for the auction purchaser contends that the entire sale consideration was deposited in this court and consequent thereto the premises be handed over to the auction purchaser.

3. It is a matter of record that the applicant (Viacom 18 Media Pvt. Ltd.) has received the amounts as received from the auction purchaser. However, an amount of Rs. 30 lakhs was not disbursed and remains deposited with the Dy. Sheriff, considering the chamber summons no. 795/18 filed by the society, St. Vincent De Paul Co-op. Hsg. Society. Ltd. The society asserted that, there are certain dues in regard to the said premises, which were payable to the society by the judgment debtors (B.R.Films).

3. On the above backdrop, that I have heard Mr. Kamat, learned counsel for the applicant/award holder, Mr. Jumani, learned counsel for judgment debtor, Mr. D'Lima, learned counsel for applicant/society in chamber summons no. 795/18 and Mr. Vaibhav Bhure, learned counsel for auction purchaser. Mr. D. K. Kher, learned Court Receiver is also present. Mr. D.S. Choudhari, Deputy Sheriff is also present along with the relevant documents.

4. The issue is in regard to the claims made by the society was discussed, for which orders were passed by this court, retaining an amount of Rs. 30 lakhs from the sale consideration which is lying in the fixed deposit with the Deputy Sheriff. On the discussion which has taken place between the parties and more particularly the auction purchaser and the society, now there is a consensuses that the auction purchaser would deposit with the society an amount of Rs.

12,50,000/- in full and final settlement of the Society's claim till date. Mr. Vaibhav Bhure, learned counsel for the auction purchaser states that the auction purchaser would deposit this amount with the society within one week from today.

5. In view of the above consensuses between the auction purchaser and the society, the amount of Rs.30 lakhs along with accrued interest, if any, is now required to be paid to the applicant/award holder (Viacom 18 Media Pvt. Ltd.). Learned counsel for the respondent (B.R.Films) would also not have any objection for such amount to be released in favour of the applicant (Viacom 18 Media Pvt. Ltd.), as also the auction purchaser would not have any objection.

6. Consequently, the chamber summons filed by the society as also the execution application would be required to be disposed of, accepting the statement as made on behalf of the auction purchaser that the amount of Rs. 12,50,000/- would be paid to the society within one week from today.

7. The Court Receiver is permitted to hand over the possession of the premises to the auction purchaser within one week from today. The Court Receiver, however, would stand discharged on the amount being received by the Society which is also being paid within one week from today as stated by Mr.Bhure.

8. Mr. D'Lima, fairly states that the society would take all necessary steps to transfer the membership in favour of the auction purchaser on the auction purchaser complying with all the other necessary legal formalities. If necessary, Dy. Sheriff shall also issue

appropriate documents/certificates, in favour of the auction purchaser, so that effective transfer can be obtained by the auction purchaser.

9. It is informed by the Court Receiver that the applicant/award holder would be required to pay the charges, fees, etc., of the Court Receiver, High Court Bombay, which be now informed by the Court Receiver to the Dy. Sheriff, so that the amount can be paid to the Court Receiver by deducting the amount payable from the said amount of Rs.30 lakhs (plus accrued interest) which now becomes payable to the applicant/award holder as noted above. Thus after the said deduction the balance amount be paid to the applicant/award holder. Mr. Kamat, learned counsel for the applicant is agreeable for this course of action.

10. There is also an amount, which is already deposited with the Court Receiver, to be paid to the Valuers which now is required to be released. The Court Receiver is permitted to release the said amount in favour of the valuer. Necessary action in that regard to be taken within two weeks from today.

11. The execution application as also pending chamber summons stand disposed of in the above terms.

12. No costs.

13. The parties to act on the authenticated copy of the order.

14. The court appreciates the fairness of all the parties arising in this consensus. The court also appreciates the assistance of the Dy. Sheriff and the learned Court Receiver.

(G.S. KULKARNI, J)