

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
INTERIM APPLICATION NO.1 OF 2020
IN
COMMERCIAL EXECUTION APPLICATION NO.2 OF 2015
IN
ARBITRATION CASE NO.BK-15 OF 2013
AND
COMMERCIAL CHAMBER SUMMONS NO.465 OF 2018
AND
COMMERCIAL CHAMBER SUMMONS NO.649 OF 2018**

M/s.Shriram City Union Finance Ltd.	...Applicant
In the matter between	
M/s.Shriram City Union Finance Ltd.	...Plaintiff
Versus	
Zero Waste Solution Pvt. Ltd. & Ors.	...Defendants
And	
Dy. Sheriff of Mumbai	...Respondent

Ms.Shakuntala Joshi with Ms.Nikita Pawar, Ms.Jalpa Pithadia for Applicant.
Mr.D.S. Choudhari, Deputy Sheriff.

**CORAM : G.S.KULKARNI, J.
DATE : 12th FEBRUARY, 2020**

P.C.:

Leave to amend prayer clause (a) to correct an amount of Rs.1,75,60,000/- to Rs.1,75,00,000/-. Amendment be carried out forthwith.

2. Heard Ms.Joshi, learned Counsel for the applicant/plaintiff. The Deputy Sheriff who is impleaded as respondent No.5 is present in the Court. The applicant holds an arbitral award dated 21 December 2013 against respondent Nos.1 to 4 inter-alia for an amount of Rs.2,17,21,151/- and more particularly as set out in column (G) of the execution application.

The immovable property of the respondents namely office premises situated at 409, 4th Floor, Konark Shram, Pandit Madan Mohan Malaviya Marg, Tardeo, Mumbai – 400 034, admeasuring about 660 sq. ft. built up area was mortgaged by the respondents in favour of the applicant to avail the financial facilities as extended by the applicant to the respondents.

3. The applicant has filed the above execution application as the award is not honoured by the respondents. As set out in the memo of the application, several attempts were made to sell the mortgaged property by following the procedure under execution, however the Sheriff could not receive any bids in any of these attempts which also involved issuing public notices. Ultimately, by an order dated 17 September 2018 on a report moved by the Sheriff (Report No.72 of 2018), the applicant/award holder was permitted to sell the said mortgaged property by private treaty through the office of Sheriff.

4. Consequent thereto the applicant has got purchasers named as Mr.Shagun R. Shah, Mrs.Chhaya R. Shah and Mr.Rajan K. Shah (for short, “purchasers”) who have offered to purchase the said property for an amount of Rs.1,75,00,000/-. An intimation to that effect was lodged on 3 December 2019 with the office of the Sheriff.

5. The parties accordingly had a meeting with the Deputy Sheriff. The Deputy Sheriff had received claims of some third parties namely from the Society-‘The Raja Bahadur otilal (Bombay) Bills Pvt. Ltd.’ Also an amount of Rs.1,75,000/- is required to be paid to the Sheriff as 1% commission on sale consideration. The purchasers in the meeting held by the Deputy Sheriff, agreed that the purchase consideration of Rs.1,75,00,000/- (Rs. One Crore Seventy Five Lakhs only) would be paid by drawing individual cheques as set out hereunder:-

Sr. No.	Bank of Maharashtra Cheque/DD Number	In favour of	Amount (Rs.)	Remarks
1	161793	The Raja Bahadur otilal (Bombay) Bills Pvt. Ltd.	40,84,196/-	Society dues till 31.03.2020 from Rajan K. Shah
2	161794	BEST CONSUMER No. 457136481	22,000/-	Pending Electricity bill cleared till 31.03.2020 from Mr.Rajan K. Shah
3	005128	Demand Draft in the name of SHERIFF OF MUMBAI	1,75,000/-	1% of the transaction value (Rs.1.75 Crores) from Mr.Shagun R. Shah
4		TDS to be paid in favour of SHRIRAM CITY UNION FINANCE LTD.	1,75,000/-	Be paid online once sale certificate is received by us. To be handed over to Shriram City Union Finance Ltd. after registration of Sale Deed
5	161795	SHRIRAM CITY UNION FINANCE LTD	27,18,804/-	Balance amount payable from Mr.Rajan K. Shah (A/c. No.20079250008)
6	197803	SHRIRAM CITY UNION FINANCE LTD	60,00,000/-	Balance amount payable from Mrs.Chhaya R. Shah (A/c. No.20079265162)
7	184668	SHRIRAM CITY UNION FINANCE LTD	43,25,000/-	Balance amount payable from Mr. Shagun R.Shah (A/c. No.60004526533)
		Rs.	1,75,00,000/-	Total agreed value

6. Accordingly the prayer today of the applicant is for an order to be passed to finalize the sale in the manner as discussed above.

7. After having perused the averments as made in the application as also after hearing the Deputy Sheriff and as to what has transpired in the meeting held by the Deputy Sheriff in regard to the manner in which the consideration would be received, in my opinion, the application is required to be allowed. It is accordingly allowed in terms of prayer clause (a) which reads thus:-

“(a) The Applicant be permitted to sale the property to the Joint Purchasers by confirming the sale in their favour for sum of Rs.1,75,00,000/-.”

8. The purchasers are accordingly allowed to make payments as set out in paragraph 5 of this order. The cheques drawn in the name of the parties handed over by Ms.Joshi are directed to be accepted by the Deputy Sheriff. The Deputy Sheriff shall take further appropriate steps to hand over the cheques to the respective parties including the applicant, as set out in paragraph 5 above. The Deputy Sheriff shall take all further necessary steps to convey the property in favour of the purchasers. Ordered accordingly.

9. The decree accordingly would stand partly satisfied and the amount so realized would now be required to be accounted to the execution account.

10. Disposed of in the above terms.

Prajakta
S.
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(G.S. KULKARNI, J.)