

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

CHAMBER SUMMONS NO. 1380 OF 2018

**WITH
CHAMBER SUMMONS NO. 1120 OF 2019
AND
INTERIM APPLICATION NO. 1 OF 2019
IN
COMMERCIAL EXECUTION APPLICATION NO. 1728 OF 2018**

Ram & Company & Ors. ...Claimants
Vs.
Polyvin Industries & Ors. ...Respondents.

**WITH
CHAMBER SUMMONS NO. 1144 OF 2019
IN
COMMERCIAL EXECUTION APPLICATION NO. 1728 OF 2018**
Jitendra Bhogilal Ghia ...Applicant
In the matter between
Ram & Company & Ors. ...Claimants
Vs.
Polyvin Industries & Ors. ...Respondents.

Mr. Hrishikesh Chavan i/b Ms. Priyal Sheth, Advocate for Claimants/Decree holder.
Mr. Daver a/w Mr. Rushab S., Mr. Sachin Masurkar, Ms. Sunitha Perunal i/b Mr. Sachin Masurkar, Advocate for applicant/original judgment debtors.

**CORAM : G.S. KULKARNI, J.
DATE : 29 JANUARY 2020**

P. C.

Chamber Summons No. 1144 / 19

1. This chamber summons no. 1144/19 is filed for praying following reliefs:

“(a) This Hon’ble Court may pleased to order that the delay of 1677 days in taking out this chamber summons be condoned;

- (b) This Hon'ble Court be pleased to call for records and proceedings in respect of above execution application no. 1728 of 2018 and after verifying the legality, maintainability and genuineness of the same as well as decree dated 10/12/2014, the above execution application be dismissed;*
- (c) Pending the hearing and final disposal of the chamber summons, the further proceedings pursuant to decree dated 10/12/2014 and the execution application no. 1728/18 be stayed;*
- (d) For ad-interim reliefs in terms of prayer (b) and (c) above be granted in favour of the respondents.*
- (e) such further and other reliefs as the nature and circumstances of the case may require;*
- (f) Decree holder be directed to pay the cost of the chamber summons to the applicants."*

2. Heard Mr. Davar and Mr. Chavan. The grounds on which the prayers are made appears to be not tenable. Considering the provisions of Order 21 Rule 16. In the present case, it is not an assignment of the decree in favour of the decree holder. The decree holder is a recipient of transfer rights of the original landlord Ram & Company. Moreover, the explanation below Rule 16 makes it clear that nothing in the rule shall affect the provision of Section 146 and a transferee of rights in the property which is the subject matter of the suit may apply for execution of the decree without a separate assignment of decree as required under Rule 16.

3. In view of the above clear position, contention as urged on behalf of the judgment debtor that no intimation or a notice of such transfer of the interest in the premises was issued in favour of the judgment debtor cannot

be accepted. In fact, Rule 16 itself is not applicable. The chamber summons no. 1144/19 accordingly would not be maintainable. It is dismissed. However, keeping open all other contentions of the applicant and the judgment debtor on the execution proceeding.

Chamber Summons No. 1120/19 and IA 1/19

4. Mr. Chavan, learned counsel for the applicant/decreed holder submits that his clients intends to file reply to this chamber summons and interim application. Let the reply be filed within two weeks from today.
5. Rejoinder, if any, be filed within one week thereafter.
6. Stand over to 18 February 2020.

Chamber summons No. 1380/18

7. Mr. Chavan, learned counsel for the applicant states that on behalf of his clients, decreed holder, he would address a letter to the advocate of the judgment debtor to point out deficiencies in the disclosure. The respondent/judgment debtor shall consider such objections and in case there are deficiencies, a further affidavit of disclosure be filed.

[G.S. KULKARNI, J.]