

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

**CHAMBER SUMMONS NO.1065 OF 2019
IN
COMMERCIAL EXECUTION APPLICATION NO.30 OF 2017**

Amrutlal Premji Patel .. Applicant/Decree Holder
v/s.
Nirman Realtors & Developers
Limited & Ors. .. Judgment Debtors/Respondents

Mr. Aseem Naphade a/w Rekha Shinde i/b. Legal Chartered for the applicant.

Mr. Makrand V. Raut a/w Manoj Nikam for respondent nos.1 to 3.

**CORAM : A. K. MENON, J.
DATED : 25TH AUGUST, 2021.**

P.C. :

1. By this Chamber Summons, the applicant seek a direction to the judgment debtors to remain present in court so as to be examined on oath as to their assets and to ascertain means of satisfying the Consent Award dated 31st August, 2015. The applicant also seeks a direction to produce the books of accounts and documents for the said purpose.

2. Respondent no.1 is a limited company. Respondent nos. 2 to 4 are said to be Directors of respondent no.1. Today all respondents are represented by counsel who states that a sum of Rs.62 lakhs has been paid pursuant to the Consent Award. According to him, there are reciprocal obligations which the applicants are not complying with. This is sought to be disputed. Today Mr. Raut states that there are minor issues pending which can be resolved as amongst the parties. The fact remains that there is an award for money and clause 11 of the Consent Award reveals that upon receipt of the sum of Rs.2.80 crores with interest, the claimants have to execute a “No Due Certificate” and thereby relinquish the right, title and interest in respect of the development agreement dated 14th February, 2008. Prima facie there appears to be no reason for not complying with the Consent Award and making payment of the aforesaid sum.

3. In that view of the matter and considering that there is no affidavit in reply despite service of this application upon the respondents in 2019, a fact that the respondents counsel fairly admits, there is no reason to keep this application pending. In fact this Chamber Summons is liable to be allowed. However,

considering the prayers, the following order is passed;

(i) The respondents shall file separate affidavits of disclosure disclosing all their assets supported by relevant documents, originals of which will be offered for inspection within one week of such disclosure.

(ii) Disclosure affidavit shall accordingly be filed within three weeks from today. Thus, by the end of 4th week, inspection shall also be completed.

(iii) In the meantime, after disclosure is completed, the applicant will be at liberty to seek clarifications from the deponents of the affidavits, If the disclosure is incomplete or inaccurate, it will be necessary to examine the respondents on oath and to that extent reserving liberty to apply in this very Chamber Summons.

(iv) The Chamber Summons is disposed, in the event of non-compliance, liberty to revive this chamber summons.

(A. K. MENON, J.)