

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.7613 OF 2023

Gloob Interior Design Pvt. Ltd.	... Petitioner
<i><u>Versus</u></i>	
Ashoka Tiles	... Respondent

— —

Mr. Chaitanya Nikte with Ms. Rishika Rajadhyaksha,
Mr. Harshawardhan Bhende i/by Regulus Advocates and Consultants
for the Petitioner.
Mr. Ronak Shah for the Respondent.

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CORAM : SHARMILA U. DESHMUKH, J.

DATE : July 07, 2023.

P. C. :

1. The papers of this proceedings are not placed by the Registry before this Court, however, considering the urgency and with consent of the parties, a copy of the petition is taken from the counsel for the petitioner and the matter was heard.

2. The challenge in the petition is to the order dated 2nd May, 2023 issuing the warrant of attachment of movable property of the petitioner, who is the judgment-debtor. Pursuant to the money decree dated 11th April, 2022, the execution application was filed by

the decree-holder in which the impugned judgment came to be passed.

3. Heard learned counsel for the parties.

4. Learned counsel appearing for the petitioner submits that he became aware of the passing of the decree in the month of December, 2022 and the application for certified copy was filed on 28th January, 2023. He would further submit that subsequently, the appeal under Order 43 of the Civil Procedure Code, 1908 came to be filed and the same is pending alongwith the stay application. He would further contend that in the meantime, the execution proceedings have continued, resulting into the order for attachment of the movable property.

5. *Per contra*, learned counsel appearing for the respondent submits that the money decree has remained unsatisfied since 2022. He would further submit that the petitioner has the remedy to approach the Appellate Court and prosecute the stay application, which the petitioner failed to do.

6. Considered the submissions of the parties.

7. It is not disputed that the appeal against the decree is pending before the Appellate Court and also the stay application. It would be prudent if the stay application is decided by the Appellate Court. At this stage, it is not necessary for this Court to go into the issue as to whether the warrant of attachment has been rightly issued. For the reason that the learned counsel appearing for the respondent submits that on 10th July, 2023, which is the next date before the Executing Court, no further steps will be taken precipitating the action.

8. This Court is informed that the stay application in the appeal proceedings is fixed for hearing on 8th August, 2023. Both the parties assure that all the pleadings in the matter will be completed before the next date and that the matter would be argued before the Appellate Court on 8th August, 2023.

9. The Appellate Court is requested to decide the stay application on or before 28th August, 2023. This is subject to the condition that the petitioner deposits 50% of the principle amount in the Appellate Court within a period of one week from today. It is made clear that this deposit is only for the purpose of ensuring that

further action is not precipitated as far as the attachment is concerned. It is open for the learned counsel for the respondent to submit before the Appellate Court, that the deposit of the entire decretal amount is warranted and the Appellate Court to consider the said submission on its own merit without taking into consideration the fact that this Court permitted to deposit 50% amount. All rights and contentions of the parties as regards deposit of the entire decretal amount is expressly kept open.

10. Writ Petition stands disposed of.

(Sharmila U. Deshmukh, J.)