

Sharayu Khot.

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

INTERIM APPLICATION NO. 5276 OF 2022

IN

EXECUTION APPLICATION NO. 564 OF 2019

Darshan Rashmikanth Bheda ...Applicant

In the matter between

Rashmikanth Hirji Bheda ...Claimant

Versus

Sadhana V. Loke & Anr., ...Respondents

WITH

INTERIM APPLICATION NO. 5272 OF 2022

IN

EXECUTION APPLICATION NO. 564 OF 2019

Rashmikanth Hirji Bheda ...Applicant/
Claimant

Versus

Sadhana V. Loke & Anr., ...Respondents

Ms. Mamta A. Shah for the Claimant.

Mr. D.S. Choudhari Deputy Sheriff present.

CORAM : R.I. CHAGLA J

DATE : 3 April 2023

ORDER :

1. This Interim Application has been placed today to consider whether to grant relief to the Applicant for withdrawal of the sale proceeds which are currently lying deposited with the Prothonotary & Senior Master of this Court in respect of two flats which were sold for aggregate amount of Rs. 4,75,00,000/- and out of which Sheriff of Mumbai transmitted Rs. 4,61,71,430/- with the Prothonotary & Senior Master of this Court on 25th August 2022 after deducting expenses on sale, poundage charges and applicable TDS.

2. The amount which is lying with the Prothonotary & Senior Master of this Court in relation to the sale proceeds of the two flats, namely Flat No. A-501 and A-901 situated at Siddhi Vinayak Horizon "A" Wing, Veer Nariman Road, Prabhadevi, Mumbai – 400 025 is permitted to be withdrawn by the Applicant and first appropriated towards satisfaction of the decretal amount, which is an amount of Rs. 22,44,607/- plus interest from 21st March 2023 for

which Execution Application No. 309 of 2019 has been filed. The Execution Application is not on board and is taken on board. The amount withdrawn shall then be appropriated against decretal amount of Rs. 5,95,23,435/- in respect of which the Execution Application No. 564 of 2019 has been filed.

3. This would be subject to the Applicant furnishing an undertaking to the effect that the society maintenance; property tax, and applicable TDS will be paid by the Decree Holder. It is clarified that upon payment, the same shall not be appropriated from the decretal amount due to the Decree Holder. Undertaking shall be furnished to the Decree Holder within a period of one week from the date of this order.

4. Accordingly, Prothonotary & Senior Master of this Court shall permit withdrawal by the Applicant of the amount lying with the Prothonotary & Senior Master and relateable to the sale proceeds of the two Flats, namely Flat No. A-501 and A-901 situated at Siddhi Vinayak Horizon “A” Wing, Veer Nariman Road, Prabhadevi, Mumbai – 400 025 which had been transmitted by the Sheriff of Mumbai to the Prothonotary & Senior Master of this Court. This after deducting

1% Sheriff's poundage.

5. The present Interim Application No. 5272 of 2022 and Interim Application No. 5276 of 2022 are disposed of.

6. The decree stands satisfied in Execution Application No. 309 of 2019 and the same stands disposed of.

7. In view of the disposal of the Execution Application No. 309 of 2019, pending Interim Applications do not survive and are disposed of accordingly.

[R.I. CHAGLA J.]