

K.S. Jadhav

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

**SHERIFF'S REPORT NO.12 OF 2023
IN
COMMERCIAL EXECUTION APPLICATION NO.80 OF 2022**

Deepak Khanna & Ors.,

**...Applicants/
Decree Holders**

Versus

Sanjiv Khanna & Ors.,

**...Respondents/
Judgment Debtors**

Mr. Siddesh Bhole a/w Ms. Aarti Deodhar i/b SSB Legal & Advisory,
Advocates for Applicants/Decree Holders.

Mr. Mukul Taly a/w Ms. Sayali Gharpure i/b Mahomedbhai & Co.,
Advocate for Respondents.

Mr. D.S. Chaudhari, Deputy Sheriff present.

CORAM : R.I. CHAGLA J.

DATE : 23RD MARCH, 2023.

ORDER :

1. By this Sheriff's Report, directions have been sought for deposit of Demand Draft bearing No.500696 of Rs.2,21,65,180/- and Demand Draft bearing No.500695 of Rs.9,27,617/- in PLA Account with Reserve Bank of India, Fort for its encashment. Further direction is sought for handing over the Cheque No.021533 dated

31st March, 2023 of Rs.60 Lakh, Cheque No.021534 dated 30th September, 2023 of Rs.60 Lakh and Cheque No.021535 dated 31st March, 2024 for Rs.60 Lakh to the Claimant. Further, the direction is sought for lifting / raising the attachment levied by this office on the Respondent's property.

2. It is mentioned in the Report that pursuant to the Warrant of Attachment dated 8th February, 2023 issued by the Prothonotary and Senior Master of this Court, the Sheriff's office has attached the Respondent's Unit No.102, 105, 114, 115 and 130, Dadar Naigaon Division, Mumbai bearing Cadastral Survey No. 242, Plot No.8, Scheme No.57, Wadala Udyog Bhavan Unit Holders Co-Operative Housing Society at Naigaon Cross Road No.26, Wadala, Mumbai – 400 031 on 15th March, 2023.

3. The Report further mentions that the letter dated 17th March, 2023 was received from the Advocate for the Respondents enclosing the aforementioned Demand Drafts drawn on ICICI Bank, Wadala Branch, Mumbai – 400 031 in favour of Sheriff of Mumbai pursuant to the Warrant of Attachment dated 8th February, 2023. Further, with the aforementioned two Demand Drafts, the Advocate for the Respondents has also enclosed the aforementioned cheques

also drawn up on ICICI Bank, Wadala Branch, Mumbai – 400 031 in favour of the Claimant. Accordingly, the Advocate for the Respondent has requested the Sheriff's Office for taking urgent steps for raising / withdrawing / cancelling the attachment levied pursuant to the Warrant of Attachment.

4. I have considered the averments in the Sheriff's Report as well as taken note of the fact that the amount of Decree with interest mentioned in the Warrant of Attachment issued by the Prothonotary & Senior Master of this Court to the Sheriff of Mumbai is the same amount deposited by way of the aforementioned Demand Drafts, by the Respondent with the Sheriff's office.

5. Accordingly, the Sheriff of Mumbai is directed to deposit the aforementioned Demand Drafts in PLA Account with Reserve Bank of India, Fort for its encashment.

6. The Sheriff of Mumbai is also directed to hand over the aforementioned Cheque No.021533 dated 31st March, 2023, Cheque No.021534 dated 30th September, 2023 and Cheque No.021535 dated 31st March, 2024 for Rs.60 Lakh each to the Claimant by tomorrow.

7. It is directed that the Cheques which have been handed

over to the Claimant shall be honoured on the due dates.

8. The aforementioned Demand Draft upon deposit in PLA Account with Reserve Bank of India and its encashment shall be handed over to the Claimant after deducting 1% of Sheriff's poundage in view of the Warrant of Attachment having been executed under Rule 474 of the Bombay High Court (Original Side) Rules. The contention on behalf of the Claimant with regard to the interest amount not being in accordance with the Interim Award on account of the deduction of the Sheriff's poundage at 1% is kept open and will be subject to the final Award passed by the learned Arbitrator.

9. The Sheriff's office shall lift / raise the attachment levied by this office on Respondent's property in the above matter.

10. The Sheriff's Report is accordingly disposed of.

11. It is further clarified that the amounts which have been deposited by way of Demand Drafts by the Respondents through their Advocates will be adjusted in the final Award passed by the learned Arbitrator.

12. Commercial Execution Application No.80/2022 is accordingly disposed of.

[R.I. CHAGLA J.]