

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

**INTERIM APPLICATION NO. 288 OF 2023
IN
EXECUTION APPLICATION NO. 1325 OF 2014**

The Cosmos Cooperative Bank
Ltd. Dadar Branch

...Applicant

VS.

M/S Pratibha Shipping Co.
Ltd And 2 Other

...Respondent

Adv. Jayavant Gaikwad and Pushpa Prajapati - Advocate for the
Applicant

Mr. D. S. Choudhari - Deputy Sheriff of Mumbai present

CORAM : S. M. MODAK, J.

DATE : 11th SEPTEMBER 2023

P. C. :-

1. Heard learned Advocate for the Applicant.
2. This Court has already attached immovable property that is flat no. 501 belonging to the Respondent Nos. 2 and 3. So also movable lying there, are also attached. There were attempts made to sale immovable property but they were not successful. It is reflected in the Order dated 20/12/2018 and order dated 28/03/2019.
3. In the meantime, the Applicant-Bank as per the provisions of the SARFAESI Act has moved the Court of the Chief Metropolitan Magistrate and sought the Order. On 01/09/2021, the Assistant Registrar of the Dadar Center was

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appointed as the Court Commissioner to take possession. That order is on page no. 37 of this application. In fact the Bank has also sold that flat.

4. This application is moved for granting permission to sell the immovable property and also to shift movable property attached lying in that flat. Now flat is already sold on 19/08/2023. Submission is made that this Interim application is filed on 20/12/2022 and attempts were made to seek circulation. However, the Applicant-Bank could not seek any order on that interim application. The price of the immovable property is Rs. 2 Crores and 52 Lakhs.

5. Prayer 'a' has become infructuous. Even though, it may be true that the movable articles are attached by the Office of the Sheriff. Now let the Applicant-Bank to sell those assets instead of the Office of the Sheriff. List of those articles is already prepared by the Bank and it is on page no. 77 onwards.

6. Learned Advocate for the Applicant after taking instructions undertake to sell those movable articles instead of selling it through the Office of the Sheriff.

7. Hence following directions are issued :-

- (i) The attachment of the immovable property is lifted.
- (ii) Let the Office of the Sheriff to confirm about articles attached by them and the articles attached by the

bank.

- (iii) Let the Applicant-Bank to pay the poundage on the basis of the price of immovable property already sold as per the Rule 474 of the High Court Original Side Rules, 1980.

- 8. Interim application is accordingly disposed of.

[S. M. MODAK, J.]