

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

Writ Petition No. 6709 of 2024

M/s. Aarti Company & others ... Petitioners
V/s.
Shri Anil Malleshpa Gore and others ... Respondents.

Mr. Anand S. Kulkarni	Advocate for the Petitioner
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CORAM : S.M. MODAK, J

DATE : 19 November 2024.

P.C. :

Heard learned Advocate for the Petitioners-Plaintiffs.

2. They have filed a suit for recovery of money. During the pendency of suit, they have applied for attachment of 10 properties. Those details are given in 3 schedules annexed to the application. They are on Page Nos.82 to 88. The trial Court rejected their application as per the order dated 22 August 2022 (Page-157). The reason for rejection finds place in Para No.17 of the order.

3. The trial Court has given the details of 9 properties in Para No.21. Except the property at Sr. No.7 and 9 there is a charge on remaining properties. There are two properties which are mortgaged by the defendant in favour of the plaintiffs. Those details are not given in the Chart. The trial Court opined that those two properties

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are sufficient to satisfy the claim of the plaintiff (Para-17).

4. The learned counsel for the Petitioner submits that even though they are mortgaged, there is a first charge of Siddheshwar Co-operative Bank-Defendant No.3. The submission is there can be an order putting second charge of the plaintiff on the properties. The subsequent development is the property at Sr. No.2 (Page-153) is sold as per the provisions of Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 and after adjusting the amount towards arrears, the Bank has returned the money to the borrower. If there could have been 2nd charge, the Petitioner could have been benefited is the submission.

5. The Respondent needs to be heard.

6. Hence, issue notice before admission to Respondent Nos.1 and 2, returnable on **7 January 2025**. Private notice is allowed. Service affidavit be filed.

(S.M. MODAK, J.)