

Kavita S.J.

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

CHAMBER SUMMONS NO.695 OF 2019
IN
EXECUTION APPLICATION NO.572 OF 2016

Angel Broking Pvt. Ltd.,

... Applicant

Versus

Kaushil Kirti Turakhia

...Respondent

Mr. Sunny Shah i/b Mr. Ashish Suryavanshi, Advocate for Applicant.
None for Respondent.

CORAM : R.I. CHAGLA, J.

DATE : 2ND JANUARY, 2024.

ORDER :

1. By this Chamber Summons, the Applicant is seeking the directions against the Respondent to disclose on Affidavit, the complete details and full and material particulars of the asset held by him, both movable and immovable and to disclose the means to satisfy the Award dated 27th May, 2009 in the above execution proceedings. Further, relief is sought for directions to the Respondent to produce all books and documents in support of the disclosure made by him pursuant to prayer Clause 'a'.

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2. The learned Counsel appearing for the Applicant has tendered Affidavit of Service dated 2nd January, 2024 which shows service of the Execution Application and the above Chamber Summons on the Respondent by way of Speed Post Acknowledgment Due (SPAD) bearing Postal Receipt No.EM130108967IN on 29th November, 2023 and it was duly delivered on 30th November, 2023 as per the consignment tract report which is annexed at Exhibit-A (colly.) to the Affidavit of Service.

3. Further, in the Affidavit of Service it is mentioned that the Advocate for the Applicant vide his E-mail dated 1st January, 2024 alongwith the service letter dated 1st January, 2024 and by a WhatsApp message on the same date informed the Respondent about the next date of the matter. This has been annexed at Exhibit-C and Exhibit-D to the Affidavit of Service. The Affidavit of Service is taken on record.

4. Considering that the Respondent has been served and inspite of service, the Respondent has not appeared in the matter, the present Chamber Summons is taken up for consideration.

5. In the Affidavit in support of Chamber Summons the

Applicant has stated that since the Award has been passed in the year 2009, the Judgment Debtor may have disposed of many of his assets both movable and immovable and therefore, it is in the interest of justice that the Judgment Debtor is directed to disclose his assets and also disclose to this Court, the manner in which he intends to satisfy the Award/Decree.

6. It appears that a prior Execution Application had been filed for execution of the Award passed on 27th May, 2009 which had been rejected for want of prosecution. Thereafter, the present Execution Application has been filed.

7. Considering that the Award was passed in the year 2009 and that there is no challenge to the Award, it would be necessary to issue directions to the Respondent for making the necessary disclosures sought for in the Chamber Summons.

8. In view thereof, the Chamber Summons is allowed in terms of prayer Clause 'a' which reads thus:

“That this Hon’ble Court be pleased to direct the Respondent to disclose on Affidavit, the complete details and full and material particulars of the asset held by him,

both movable and immovable and to disclose the means to satisfy the Award dated 27th May, 2009 in the aforesaid execution proceedings.”

9. The Disclosure Affidavit shall be filed by the Respondent within a period of four weeks from today.

10. The Advocate for the Applicant shall serve copy of this order on the Respondent and file Affidavit of Service on or before the next date.

11. The Chamber Summons shall be placed for compliance on 12th February, 2024.

[R.I. CHAGLA, J.]