

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

**INTERIM APPLICATION NO.1951 OF 2022
IN
EXECUTION APPLICATION NO.2351 OF 2015**

Madhukar Patil and anr. ... Applicants

In the matter between:
Visible Chits (Maharashtra)
Private Limited and anr. ... Applicants
Vs.
Sanjeeb Sharma and anr. ... Respondents

**WITH
COMMERCIAL EXECUTION APPLICATION (L) NO.2841 OF 2018
WITH
INTERIM APPLICATION NO.2272 OF 2021
IN
COMMERCIAL EXECUTION APPLICATION (L) NO.2841 OF 2018**

Mr. D. Banerjee with Ms. Neha Achliya i/by Ms. Sapana Rachure,
Advocates for the Applicants.
None for the Respondents.

**CORAM : ABHAY AHUJA, J.
DATE : 18 APRIL, 2024.**

PC. :

1. Pursuant to order dated 21st March, 2024, today when the matter is called out, Mr. Banerjee, learned Advocate appearing for the Applicants in the matter submits that Visible Chits (Maharashtra) Private Limited as

well as the Advocate for the said company, who are the Judgment Creditors have been attempted to be served pursuant to the order of the Court.

2. Drawing this Court's attention to the affidavit of service dated 4th April, 2024 filed in this Court, Mr. Banerjee would submit that the copy of the Interim Application was attempted to be served on the Visible Chits (Maharashtra) Private Limited, however, the packet has been returned on 2nd April, 2024 with the remark "Item returned, Addressee left without instructions". As far as the Advocate for the Judgment Creditor is concerned, Mr. Banerjee submits that the packet has been served on 30th March, 2024 by speed-post. The affidavit of service to the Judgment Creditors indicates that the Item has been returned, as Addressee has left without instructions, however, the Advocate for the Applicants who also appears to be on record has been duly served and therefore, the service in accordance with the order dated 21st March, 2024 in my view has been effected. It is submitted that the service in accordance with order dated 21st March, 2024 having been effected, this Court grant the relief as per prayer clause (a) which reads thus :-

“(a) This Hon'ble Court be pleased to permit the

Applicants to withdraw an amount of Rs.1,17,23,372/- lying deposited with the learned Prothonotary and Senior Master, High Court, Bombay from the sale of the Flat Nos.102/103, 1st floor, Building No.A-4, RNA Park, Vashi Naka, Mumbai 400 074.”

3. Earlier on 21st March, 2024, this Court in paragraph No.1 has recorded the submissions of Mr. Banerjee. Paragraphs No.1 and 2 of the said order are usefully reproduced as under :

“1. Pursuant to earlier orders of this Court, today when the matter is called out, Mr. Banerji, learned counsel appears for the Applicants and submits that since service to the Visible Chits (Maharashtra) Private Limited and the others has been effected, this Court may permit the Applicants to withdraw Rs.1,17,23,372/- being the decretal amount of Rs.1,11,00,000/- alongwith interest at the rate of 18% in terms of Judgment dated 3rd February, 2017 in Summary Suit No.413 of 2015. Mr. Banerji would submit that earlier pursuant to order dated 28th April, 2021 in Sheriff’s Report No.37 of 2021 the Visible Chits (Maharashtra) Private Limited had deposited an amount of Rs.1,53,00,000/- in this Court. That by order dated 9th September, 2021 in Interim Application (L) No.13974 of 2021 in Execution Application No.2351 of 2015 this Court (Coram : A.K. Menon, J.) had allowed the Visible Chits (Maharashtra) Private Limited to withdraw Rs.33,03,628/- from the monies lying with the office of the Prothonotary and Senior Master.

2. Mr. Banerji would submit that now that the Visible Chits (Maharashtra) Private Limited has withdrawn amounts in execution of its decree, this Court may permit the Applicants herein to withdraw the

amount of the decretal dues of the Applicants which are requested for in the Interim Application. Mr. Banerji would submit that the fact of effective service to the Visible Chits (Maharashtra) Private Limited has also been recorded in earlier orders of this Court.

4. Now that the Judgment Creditors/its Advocate has been served in accordance with order dated 21st March, 2024 and despite service, none is present on behalf of the Judgment Creditors, it can be inferred that the Judgment Creditors have no objection, if the Application is allowed and the Applicants are allowed to withdraw the amount of Rs.1,17,23,372/- lying deposited with the learned Prothonotary and Senior Master being the proceeds of the sale of Flats No.102/103 on the first floor of Building No.A-4, RNA Park, Vashi Naka, Mumbai 400 074.

5. The Application is accordingly made absolute in terms of prayer clause (a).

(ABHAY AHUJA, J.)