



**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO.2194 OF 2024**

Rustum Sam Boyce ... Petitioner
versus
M/s. Astrix Reality
through its Partner and Anr. ... Respondents

Mr. Nimay Dave with Mr. Sheroy M. Bodhanwalla, Mr. Akash Singh, Mr. Shreyas Thakur i/by M.S.Bodhanwalla and Co., for Petitioner.
Mr. Sumit Kothari with Ms. Deepashikha Godbole, for Respondent No.1.
Mr. Shashwat Rai i/by Keystone Partners, for Respondent No.2.

CORAM: N.J.JAMADAR, J.

DATE : 12 FEBRUARY 2025

P.C.

1. Heard the learned Counsel for the parties.
2. The challenge in this Petition was initially to an order dated 7 December 2023, whereby the application preferred by the Petitioner to implead him as a party to the execution proceedings being Darkhast No.647 of 2019 came to be rejected. Post rejection of the said application, on 30 April 2024 the executing Court has issued warrant for attachment of the property under Order XXI Rule 54 of the Code of Civil Procedure, 1908. The said order has also been assailed by carrying out amendment in the Petition.
3. In the meanwhile, the Petitioner has also preferred an application purportedly under Order XXI Rule 58, being Misc. Application No.624 of 2024.
4. Learned Counsel for the Petitioner submits that, that application is still

subjudice. Since the property of the Petitioner has been attached pursuant to the order dated 30 April 2024, the Petitioner has an apprehension that further steps may be taken by the executing Court in execution of the decree impairing the rights of the Petitioner, without deciding the application under Order XXI Rule 58 of the Code.

5. Since the Petitioner has already filed an application under Order XXI Rule 58 of the Code before the executing Court, there is no propriety in entertaining the instant Petition. The executing Court can be directed to decide the application under Order XXI Rule 58 as expeditiously as possible. In the meanwhile, though the attachment of the property pursuant to the order dated 30 April 2024 may continue, the executing Court may not take further steps in execution till the application under Order XXI Rule 58 is decided.

6. The executing Court is requested to make an endeavour to decide the said application i.e. 624 of 2024 as expeditiously as possible and preferably within a period of three months from the date of communication of this order.

7. The Writ Petition accordingly stands disposed.

(N.J.JAMADAR, J.)