



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

INTERIM APPLICATION NO. 5714 OF 2025
IN
EXECUTION APPLICATION NO. 2465 OF 2024

Niwara Cooperative Housing Society Ltd(Prev. ... Applicant
Known As Bank Of Mh. Employees Co-Op. Hsg. Soc
Ltd.)

Versus

Vastukala Developers, through its Sole Proprietor ... Respondent
Mahendra B. Mhatre

.....
Mr. Nikhil N. Wadikar a/w. Mr. Kastur P. Patil i/by Mr. Nandu Pawar,
Advocates for the Applicant.
Mr. Tanmay Vispute, Advocate for the Respondent.

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CORAM : ABHAY AHUJA, J.
DATE : 15 OCTOBER 2025

P.C. :

1. This Interim Application has been filed by the Judgment-Creditor-Society seeking police protection to the Bailiff for executing warrant of attachment under Order XXI Rule 43 of Code of Civil Procedure, 1908 (CPC) for taking inventory of movable articles of the Respondent-Judgment-Debtor and also attaching the same without obstruction from the Respondent-Judgment-Debtor.
2. When the matter is called out, Mr. Wadikar, learned Counsel

appears for the Applicant-Judgment-Creditor and submits that the execution application has been filed for execution of the Award dated 13th March, 2024 directing the Respondent-Judgment-Debtor to pay an amount of Rs.4,81,67,610/- and cost of Rs.15,33,075/- with interest at the rate of 12% p.a. on the respective amounts from the date of the Award till realisation.

3. Mr. Wadikar, learned Counsel for the Applicant submits that since no payments came through, therefore, the execution proceedings have been taken out and accordingly warrant of attachment of movables under Order XXI Rule 43 of CPC and warrant of attachment of immovables under Order XXI Rule 54 of CPC was issued against the Respondent on 25th October, 2024. The same was received by the Sheriff's Office on November, 21, 2024. On December 16, 2024, Bailiff assigned to the office of the Sheriff went to the address of the Respondents to execute both the warrants.

4. The Bailiff has stated in his report dated 17th December, 2024 that the warrant of attachment under Order XXI Rule 54 of CPC in respect of the movables has been executed and that the residential premises viz. Jaiguru Bungalow, Road No.2, Pandurang Wadi, Goregaon (E), Mumbai – 400063 (the “said premises”) has been attached and that the warrant has been executed by him on 16th December, 2024 by proclaiming by beats of drum. However, it is stated in the report that the

warrant of attachment under Order XXI Rule 43 of the CPC has been returned unexecuted as at the said premises in Goregaon, he met the Respondent-Judgment-Debtor-Mahendra B. Mhatre, proprietor of the Respondent and after he disclosed his identity and told his purpose of the visit and showed the duplicate copy of the warrant, the said Mr. Mhatre has not allowed him to take inventory of the movable articles and has obstructed the execution of the said warrant and therefore the warrant of attachment of the movables in the said premises could not be executed.

5. Mr. Wadikar, learned Counsel appearing for the Applicant has submitted that the Respondent has obstructed a public servant from fulfilling his duties without any legitimate right. Mr. Wadikar submits that therefore, this Court may grant the assistance of the police officials from Vanrai Police Station, Goregaon, Mumbai to accompany the Bailiff to execute warrant of attachment under Order XXI Rule 43 of CPC so that the Bailiff can take inventory of the movable articles in the said premises.

6. Mr. Vispute, learned Counsel appears for the Respondent-Judgment-Debtor and submits that the Application has not been furnished to him and that some time may be granted after furnishing the application, to file reply, however, also submitting that the Respondent-Judgment-Debtor is present in Court.

7. Mr. Wadikar, learned Counsel appearing for the Applicant vehemently opposes the request for time and furnishes copy of the application to learned Advocate Mr. Wadikar for the Applicant and submits that if any time is granted, considering the conduct of the Respondent-Judgment-Debtor, the movables at the said premises would be displaced and there would be nothing left for the Bailiff to take inventory and therefore this Court may not grant any time and allow the Application.

8. I have heard the learned Counsel in the matter.

9. It is not in dispute that the Respondent-Judgment-Debtor owes Rs.4,81,67,610/- and cost of Rs.15,33,075/- with interest at the rate of 12% p.a. to the Applicant. It is also not in dispute that no payment has been made to the Applicant that there is no stay on the execution of the Award. A perusal of the Bailiffs report as noted above clearly indicates that the Respondent-Judgment-Debtor, who is present in Court has obstructed the Bailiff from executing the warrant of attachment under Order XXI Rule 43 of the CPC on 16th December, 2024. The Bailiff has sent a copy of the report to the Deputy Sheriff's Office on 4th January, 2025. The entire factual data in the application and the annexures has not been and cannot be disputed.

10. While ordinarily this Court would grant time in the matter where applications are filed and time for reply is sought, however, this is

not a case where this Court deems it necessary to grant any time. However, as and by way of abundant caution, this Court have inquired with learned Advocate appearing for the Respondent-Judgment-Debtor as to his client's response in the matter. Mr. Vispute, learned counsel appearing for the Respondent-Judgment-Debtor after taking instructions submits that his client the Respondent will facilitate the Bailiff to take inventory of the movables lying at the said premises tomorrow i.e. on 16th October, 2025 at 11:00 a.m.

11. Since, the Respondent-Judgment-Debtor has himself agreed to permit the Bailiff to take inventory tomorrow at 11:00 a.m. and to execute the warrant of attachment under Order XXI Rule 43 of CPC, it would not be necessary to pass any order in this Application at this stage.

12. List on **17th October, 2025** on the supplementary board for the report of bailiff.

13. Mr Mahendra B. Mhatre, the sole-proprietor of the Respondent-Judgment-Debtor also to remain present in Court on the next date.

14. All concerned to act on a copy of this order duly authenticated by the learned Associate of this Court.

(ABHAY AHUJA, J.)