



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

38 CRR/86/2026

In

EXA/1826/2018

MADHUKANTA MURLIDHAR SHAH & ORS.

..APPLICANTS

VS

DILIPKUMAR MURLIDHAR SHAH

..RESPONDENT

Adv. Shashwat Rai i/b. Keystone Partners for applicants.

Adv. Dhaval A. Patil i/b. M/s. K. Ashar & Co. for plaintiff no.5.

Mr. B. V. Baravkar, Court Receiver a/w. Mr. Swayam Chopda, OSD,
Court Receiver present.

CORAM : RAJESH S. PATIL, J.

DATE : 15 APRIL 2026.

P.C. :

1) Mr. Rai, learned counsel appearing for the applicants in the execution application submits that pursuant to the consent terms dated 8/4/2006, entered into between the parties, who are closely related being siblings in Suit No.442/2005. Since some of the parties have not cooperated, therefore, Execution Application bearing No.1826/2018 has been filed in this Court by Entry No.2. As there was delay in filing the execution application, Notice under Order XXI Rule 22 was preferred. The said Notice under Order XXI Rule 22 being Notice No.262/2018 along with copy of the Execution Application was served on all the parties.

2) By an order dated 24/3/2025, Notice No.262/2018 filed under the provisions of Order XXI Rule 22 of the Code of Civil Procedure was allowed. Considering that, in view of the parties had not appeared though they were duly served as shown in the affidavit of service of the Bailiff dated 18/12/2018 and advocate's affidavit of service dated 25/1/2024.

3) After the application filed under Order XXI Rule 22 was allowed, the matter has further proceeded for execution. However, some of the parties had chosen not to appear in the present proceeding.

4) Today, learned counsel appearing on behalf of the decree holder – claimant no.2 has sought a relief that Flat No.301-A, situated in Surya Apartment Co-operative Housing Society Limited, Bhulabhai Desai Road, Mumbai 400 026, be put up for auction under Order XXI Rule 65 of the Code of Civil Procedure.

5) Learned counsel for the plaintiff no.5 Mr. Dhaval Patil has no objection if this Court proceeds further with the selling of the said flat as the Court Receiver's Report dated 14/11/2024 is already on record.

6) In order to give one more chance to the parties, who are not

present today, stand over to **29/4/2026**.

7) Learned counsel appearing for the decree holder would serve the copy of today's order and the copy of the execution application on the other side by all permissible modes and file affidavit of service to that effect before the next date of the hearing.

8) It is made clear that though served, if some of the parties would not appear, this Court would proceed further to sale of Flat No.301-A, situated in Surya Apartment Co-operative Housing Society Limited, Bhulabhai Desai Road, Mumbai 400 026.

(Rajesh S. Patil, J.)