



Spl. Darkhast No.36/2016
Shapoorji Palanji & Co. V/s
Nilesh Thakur
CNR No.MHRG020019832016

Order below Exh. no.312

Judgment-debtor no.3 prays to stay the proceedings of execution petition.

2 He contends that the decree-holder has initiated multiple criminal proceedings against him. In the year 2017, the decree-holder filed an application under Section 451 of the Code of Criminal Procedure, bearing M.Cri.A. no. 769 / 2014 in crime register no.4/2014, which came to be rejected by the Sessions Court on 05/01/2017. The decree-holder thereafter preferred Criminal Appeal no. APL/785 of 2017, which is presently pending before the Hon'ble Bombay High Court. Further, Sessions Case nos.10000/2015 and 100164/2019, PMLA Special Case no.19/2018, Special Case nos.852/2024 and 120/2025, and Sessions Case nos. 14/2018 and 28/2018 are pending adjudication before the concerned Courts at Alibag, Mumbai, and the designated Special Courts.

3 He further contends that the properties have been seized by the investigating agency in the aforesaid proceedings. The decree-holder has simultaneously initiated civil as well as criminal remedies, which amounts to multiplicity of proceedings and constitutes an abuse of the process of law. It is further alleged

that the decree-holder has selectively pursued action against certain judgment-debtors while omitting others, thereby causing undue harassment. The judgment-debtors have also approached the Hon'ble Bombay High Court and sought appropriate reliefs, including expeditious hearing and clarification in respect of overlapping issues concerning the said properties, which proceedings are presently pending. Therefore, judgment debtor no.3 prays to grant the application as per prayer clause.

4 The decree-holder resisted the application vide say (Exh. no.314) contending that the application is barred by the principle of *res judicata*. It is submitted that the judgment-debtor had previously filed similar applications which were rejected by the Court. The present application has been filed with the sole intention of delaying the execution proceedings. Pendency of criminal proceedings cannot constitute a ground to stay the execution petition. It is further contended that all the properties are not seized by the investigating agency. Initiation of remedies under civil and criminal law simultaneously cannot be a ground to stay the execution petition. It is the prerogative of the decree-holder to take action against any of the judgment-debtors. Merely challenging the order of the Sessions Court before the Hon'ble Bombay High Court also does not furnish a ground to stay the execution petition. By denying the remaining averments in the application, the decree-holder prays that the application be rejected with exemplary costs of ₹10,00,000/- (Rupees Ten Lakhs).

5 By filing a rejoinder (Exh. no. 315), judgment-debtor no.3 contends that a blanket and evasive denial does not amount to a valid denial. It is urged that the principle of *res judicata* is not applicable to the present application in the absence of a previous order passed upon framing of issues and final adjudication. The fact of pendency of criminal proceedings has been admitted by the decree-holder. The seizure of the properties has not been specifically denied by the decree-holder. It is further submitted that the decree-holder has admitted lack of knowledge regarding third party transactions, which demonstrates lack of clarity over title and possession. Judgment-debtor no.3 therefore asserts that the application is maintainable under Section 47 of the Code of Civil Procedure.

6 Heard the learned advocate for judgment-debtor no.3. He submits that there is no documentary evidence on record to establish transfer of amounts of the companies belonging to the judgment-debtors. It is urged that there is no agreement between the parties. Four Sessions Trials are pending before the Sessions Court at Mumbai. The properties have already been attached and therefore cannot be attached again. The decree-holder has failed to take action against the absconding judgment-debtor. He reiterates the contention regarding multiplicity of proceedings. It is further submitted that the amount withdrawn from the account of the absconding judgment-debtor ought to be adjusted in the execution proceedings. There is no documentary evidence of payment of ₹54 crores to the judgment-debtor.

7 The advocate for judgment-debtor no.3 has also filed written notes of arguments (Exh. no. 326), wherein the scope of Sections 47 and 151 of the Code of Civil Procedure has been highlighted. He has referred to several judgments of the Hon'ble Supreme Court in support of his submissions, however, he has failed to produce copies of the said judgments. Therefore, the observations of the Hon'ble Supreme Court as quoted judgment-debtor no.3 are not helpful to him, and he merely reiterates the facts stated in the application (Exh. no. 312).

8 The learned advocate for the decree-holder submits that an identical application (Exh. no. 254) had earlier been filed by the decree holder, which came to be granted by this Court, with observations on the very facts now reiterated in the present application (Exh. no.312). It is further submitted that the Directorate of Enforcement has taken possession of only six properties under the provisions of the PMLA. The criminal proceedings were initiated only in respect of certain vehicles, with which the present judgment-debtor has no concern, though he is a party to these proceedings. The order of attachment and sealing of the properties has already been passed by this Court below the earlier application (Exh. no.254). The pendency of proceedings before the Hon'ble Bombay High Court cannot be a ground to stay the execution proceedings.

9 Considering the facts and circumstances, it is evident that judgment-debtor no.3 has been continuously filing applications one after another on several grounds. In the context of the stated facts, the grounds raised in the present application require consideration only to the extent of the seizure of properties by the directorate of enforcement. The other grounds urged are not justifiable for staying the execution petition.

10 It is further material to note that judgment-debtor no. 3 has relied upon the order of the Sessions Court in Criminal M.A. no. 769 / 2014, as well as the letter filed by Adv. Yesh Arora before the Prothonotary and Senior Master, Original Side, Bombay High Court. Reliance has also been placed on the leave and license agreement dated 27/07/2020 executed by one Thakur Ajinkya Nitish in favour of Kate Priyanka Sagar, which pertains to Flat no. B-16 situated at Ashirwad Co-operative Housing Society Ltd., Vira Desai Road, Andheri (West).

11 Considering the documents relied upon, it is significant to note that the letter filed by Advocate Arora does not bear either the signature of the advocate or the date. It is merely a print-out of the contents of the said letter and, therefore, is of no assistance to judgment-debtor no.3. Further, the leave and license agreement and the order of the Sessions Court in Criminal M.A. no.769/2014 are also not useful to judgment-debtor no.3 for the sole reason that the present application has been filed after rejection of the

earlier application (Exh. no.283) and the facts of leave and license and order were within his knowledge when the said application filed. Considering the facts on record, an inference can be drawn that this is yet another attempt to prolong the execution proceedings.

12 It is further material to state that my predecessor-in-office, while passing orders below applications (Exh. nos.250 and 254), had observed that judgment-debtor no.3, appearing in person, had advanced arguments and expressly given no objection to the Court taking possession of the attached properties by sealing the same. Thereafter, judgment-debtor no.3 commenced filing applications one after another, as noted above. Considering the orders passed below applications (Exh. nos. 250 and 254) and the subsequent circumstances, I do not find any substance in the present application. The application, therefore, deserves to be rejected. Hence order;

ORDER

The application is rejected.

Place:- Alibag.

Date:- 31/07/2026

(B.B.Gaware)

Civil Judge Sr. Dn., Alibag