

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

INTERIM APPLICATION NO. 1255 OF 2022
IN
EXECUTION APPLICATION NO. (L) EXAL 299 OF 2022
IN
ARBITRATION CASE NO. RA/NEO/LRN/LOT-4/025

Neo Growth Credit Pvt Ltd
Vs.
Malaika Appliances Limited

...Applicant
...Respondents

**Mr. Sanjiv Sawant a/w Ms. Garima Joshi and Ms. Bijal Gogri i/b GNP Legal
for the Claimant**

CORAM:- B. P. COLABAWALLA,J.
DATE :- 13th SEPTEMBER, 2022.

P. C.:

1. The above Interim Application is filed seeking the following reliefs:

- “(a) That the Respondent be directed to deposit decretal amount of a sum of Rs. **21,10,260.48/-** with further interest on Rs. **21,10,260.48/-** @ 18% p.a. from 16.03.2021 till payment and / or realization thereof;*
- (b) That the Respondents above named be required by an order of this Hon’ble Court to file their Affidavit stating particulars of their properties etc., as provided under Order 21 Rule 41 of the Code of Civil Procedure, 1908.*

- (c) *That the Respondents be detained in civil prison as per Order 21 Rule 41 Sub-rule 3 of the Code of Civil Procedure for non-compliance of the order passed by this Hon'ble Court in terms of prayer clause (b) hereinabove;*
- (d) *That the Respondents be directed to disclose their means on affidavit for satisfying the decree of the Applicant under execution as per Section 51 of the Code of Civil Procedure;*
- (e) *That pending the hearing and final disposal of the Interim Application the order of injunction restraining the Respondents their servants and agents or any persons claiming through them from transferring and / or creating any third party rights on the properties disclosed by the Respondents on affidavit as prayed in the prayer clause (b) above;*
- (f) *Pending the hearing and final disposal of this Interim Application the Court Receiver High Court Mumbai be appointed as a Receiver on the properties disclosed by the Respondents as prayed for in prayer clause (b) above;*
- (g) *That the Respondents be arrested and detained in civil prison as per the provisions of the section 51 of the Code of Civil Procedure;*
- (h) *This Hon'ble Court be pleased to issue precept under section 46 of the Code of Civil Procedure 1908 attaching the properties belonging to Respondents and disclosed by the Respondents under Order XXI Rule 41 of Code of Civil Procedure and which are not within the jurisdiction of this Hon'ble Court.*
- (i) *The properties and salary of the Respondents be attached and the Applicant be allowed to recover their dues from the same by issuing Warrant for Sale under Order XXI Rule 64 of the Code of Civil Procedure 1908 thereof;*
- (j) *The Respondents be arrested and detained in the civil prison after issuing show cause notice as per the provisions of Order*

XXI rule 37 as the decree for payment of money of plaintiff is not satisfied by the Respondents;

(k) The judgment Debtors Respondents be arrested by issuing a Warrant for arrest as per the provision of Order XXI Rule 37 Sub-Rule 2 of the Code of Civil Procedure;

(l) The judgment debtor be arrested and shall be brought before the Hon'ble Court as per the Order 21 Rule 38 of the Code of Civil Procedure;"

2. The learned counsel appearing on behalf of the Applicant brought to my attention the affidavit of service dated 25th April, 2022 in which it is stated that service has been returned unclaimed by Respondent No.1 & 4 and that the service has been duly completed and accepted by Respondent No.2 & 3, as more particularly set out in the said affidavit. After perusing the affidavit, I am satisfied that the Respondent Nos. 2 & 3 are duly served.

3. In the above Execution Application, an Arbitral Award dated 16th March 2021, is sought to be executed under which the Respondent was directed to pay to the Applicant as sum of Rs. 21,10,260.48/- together with further interest @18% p.a. from 16th March 2021 till payment and / or realization. At the ad-interim stage, the learned counsel appearing on behalf of the Applicant presses the above application in terms of prayer clause (b) reproduced above.

4. Having heard the learned counsel appearing on behalf of the Applicant, I do not see any impediment in granting the aforesaid relief especially considering that the execution of the Arbitral Award is not stayed by any Court.

5. In these circumstances, there will be ad-interim relief in terms of prayer clause (b) reproduced above. The disclosure affidavit shall be filed by the Respondent within a period of four weeks from today. The advocates for the Applicant are directed to serve a copy of this order by hand delivery on the Respondent.

6. Stand over to 18th October, 2022.

7. This order will be digitally signed by the Personal Assistant of this Court. All concerned will act on production by fax or email of a digitally signed copy of this order.

(B. P. COLABAWALLA, J.)