

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
EXECUTION APPLICATION NO. 129 OF 2012
ARB/CASE/ARB/SVC/R/124/2009 (N/C)

The Sharmrao Vithal Co-op. Bank Ltd. Applicant

V/s.

Apeksha Enterprises & Ors. Respondents

And

Vijay Warty Claimant

Mr. Vishal Narkar, Advocate for Applicant

Coram : B.M. Gore

Commissioner for Taking Accounts

Date : 06 July 2015

CALLED FOR DIRECTIONS :

Ld. Advocate for Applicant states that they have filed Chamber Order No. 588 of 2015 for extension of returnable date of Warrant of Sale.

The office has also received a letter from Suyash Co-op. Hsg. Soc. Ltd. stating that as per Society record, Mrs. Ahilya Purushottam Warty was the original member of the suit flat and she has nominated Mr. Vinay Purushottam Warty as her legal heir. However, Mrs. Ahilya Purushottam Warty and Mr. Purushottam Warty are no more. After the demise of both of them, no steps have been taken to bring legal heirs of the deceased on records of the Society. Therefore, till date, the suit flat stands on the name of Mrs. Ahilya Purushottam Warty.

Pursuant to the Notice issued to the 3rd Party Claimants, one Mr. Vijay Warty has filed Affidavit stating that he is the brother of

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: 2 :

Mr. Vinay Warty, Opponent No. 2 and the said property is an ancestral property and as per Hindu Succession Act, Opponent is not an absolute owner of the suit property and as per Hindu Succession Act, Mr. Vijay Warty, 3rd Party Claimant, Mr. Vinay Warty, Opponent No. 2 and his son Saurabh Warty are entitled to the share in the said suit flat. However, in the present matter, Applicant Bank has prayed for the sale of the entire flat.

In view of above, it appears that Opponent No. 2 has no absolute right, title and interest in the suit property, therefore, entire flat cannot be sold. Hence, Applicants are directed to take steps to amend the Warrant accordingly.

Adjourned to 06 October 2015.

06/07/2015

Commissioner for Taking Accounts