

**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**

The Shamrao Vithhal Co-op. Bank Ltd. Applicants
Vs.
Apeksha Enterprises & Ors. Opponents

None present for Applicants.
None present for Opponents.

Before : Mrs. Shonali K. Dighe
Commissioner for Taking Accounts
Date : 8th July, 2025

FOR DIRECTIONS :

(DUPLICATE WARRANT FOR SALE NOT ON RECORD)

- Sr.no.3
1. Today matter is listed under caption for Directions (Duplicate Warrant for Sale not on record). No-one is present on behalf of Applicants as well as Opponents.
 2. In the present matter, the Proclamation of Sale was settled by order dated 13th September, 2023. However, during the process of settling the draft of the Proclamation of Sale, it was observed that a duplicate Warrant for Sale had been collected on 3rd April 2023 on behalf of the Advocate for the Applicants, for the purpose the of seeking an extension of the returnable date of the Warrant for Sale. 2

3. This office has called for Record and Proceedings of Execution Application No. 129 of 2012 from Execution Department and accordingly it was received from the said department on 2nd July, 2025.

4. By an order dated 8th November, 2023, it was made clear to the Advocate for the Applicants that the Proclamation of Sale cannot be finalized until the Warrant for Sale is returned by the Advocate. The Advocate is, therefore, directed to take prompt action and submit the duly amended Warrant for Sale to the office of the Commissioner for Taking Accounts without delay.

5. Upon perusal of the Record and Proceedings, it appears that, returnable date of Warrant for Sale was extended up-to 20th December, 2016 and thereafter Advocate for Applicant filed Chamber Order No. 1021 of 2019 for extension of returnable date of Warrant for Sale. Said Chamber Order was allowed on 4th November, 2019 and returnable date was directed to be extended till 20th December, 2020, U/O XXI, Rule 64 of Code of Civil Procedure, 1908.

6. It further appears that in-spite of the orders passed on Chamber Order No. 1021 of 2019 Advocate for Applicants/Claimant failed to take steps for amendment of Warrant for Sale.

7. Upon perusal of the original record and proceedings of the execution application, it is

observed that the Advocate for the Claimant has failed to apply for a further extension of the returnable date of the Warrant for Sale. This inaction on the part of the Advocate has resulted in a delay in the execution process and is indicative of a lack of due diligence in prosecuting the matter. The Advocate is required to take prompt and appropriate steps for compliance of the orders passed by this forum. In spite of the directions issued on 8th November, 2023, Advocate for Claimant failed to apply for extension of returnable date of Warrant for Sale.

8. In view of the above, the office is directed to issue a Notice under Rule 498 of the High Court (Original Side) Rules, 1980, to the Applicants and their Advocate. The Notice shall state as follows:

"You are hereby directed to remain present in this office on the returnable date without fail and to inform this office of the steps taken by you for seeking an extension of the returnable date of the Warrant for Sale, as required for the issuance of the Proclamation of Sale by this office, in compliance with the order dated 13th September, 2023. Failure to comply with this direction will result in the matter being placed for removal under Rule 498 of the High Court (Original Side) Rules, 1980, for non-prosecution." Notice made returnable on 22nd July, 2025.

9. The office is further directed to serve the Notice to the Claimants and their Advocate by Registered Post Acknowledgement Due (R.P.A.D.), by E-mail, and to also communicate the same telephonically to ensure due compliance.

10. Stand Over to 22nd July, 2025. Office to place the matter for Removal under Rule 498 of High Court (Original Side) Rules, 1980.

08.07.2025

Commissioner for Taking Accounts