

**IN THE HIGH COURT JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
EXECUTION APPLICATION NO. 604 OF 2022
IN
EXECUTION APPLICATION NO. 379 OF 2017
IN
SUIT NO. 113 OF 2014**

Sumer Trinity Towers CHSLApplicant / Judgment
Creditor

V/s.

Sumer Builders and Ors. Judgment Debtors
/ Respondents

AND

J. C. Flowers Asset
Reconstructions Pvt. Ltd. Third Party
Claimant / Objector

Ms. Gauri Mestha i/b. L J Law, Advocate for Applicant / Judgment
Creditor.

None present for Judgment Debtors / Respondents.

Ms. Anamika Singh i/b. Trilegal, Advocate for Third Party
Claimant/Objector (V. P. not filed).

Before : Mrs. Shonali K. Dighe
Commissioner for Taking Accounts
Date : 18th November, 2025

FOR DECIDING CLAIM :

- Sr.no.1
1. Heard Advocate appearing on behalf of Applicant/Judgment Creditor as well as Third Party Claimant/Objector.
 2. The Ld. Advocate for the Third Party Claimant/Objector submits that Interim Application No. 6895 of 2025, seeking an order for

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raising of attachment, is now listed before the Hon'ble Court on 26th November, 2025. She further submits that their client has a prior and exclusive charge over the properties mentioned at Sr. Nos. 2 and 3, since 2018 and 2016 respectively. Therefore, it is requested that the matter be adjourned until the final decision on the Interim Application.

3. The Ld. Advocate further submits that the property at Sr. No. 2 is mortgaged with the Third Party Claimant by Vibrant Projects, and the property at Sr. No. 3 is mortgaged by Sumer Builders, who is Judgment Debtor No. 1 in the present execution proceedings.

4. It is the contention of the Advocate for the Third Party Claimant that Vibrant Projects is not a party to the present proceedings and therefore is not concerned with the execution of the property mortgaged by them with the Third Party Claimant.

5. The Ld. Advocate for the Applicant / Judgment Creditor submits that pursuant to the Consent Terms dated 29th October, 2018, the parties arrived at settlement terms, and the charge of the Judgment Creditor over all three properties belonging to the Judgment Debtor is prior in time to the charge claimed by the Third Party Claimant.

6. The Ld. Advocate for the Applicant / Judgment Creditor further submits that they have already placed on record a copy of Affidavit dated 16th August, 2025, wherein the Chairman of the society, Shri Suresh Pakale, has stated on oath that the Judgment Creditor conducted an independent search in respect of the properties mentioned in the Warrant for Sale, and from the available records it is evident that the properties mentioned at Sr. Nos. 3(A), (B), and (C) belong to and are in possession of Judgment Debtor No. 1, and are free from any encumbrances. It is further stated that the other properties listed at Sr. Nos. 3(E) to (I), though forming part of a project of Judgment Debtor No. 1, have been occupied by various flat purchasers.

7. The Ld. Advocate submits that a copy of the Affidavit dated 26th June, 2023 containing the details of the property as per the online database has already been submitted by them vide praecipe dated 2nd September, 2025, and the same is on record. Therefore, since the Judgment Creditor has already established the title of the Judgment Debtor, there is no requirement to file a separate affidavit based on the online database.

8. It is the contention of the Advocate for the Judgment Creditor that notice has already been issued to the Judgment Debtor, directing him to

produce the title deeds on record. All three properties belong to Judgment Debtor No. 1, and the Judgment Creditor cannot be expected to produce the title documents. She further submits that, since the original title deeds of the properties are in the possession and control of the Judgment Debtor, the Judgment Creditor cannot produce the same.

9. I have perused Exhibits A, A-1, and B of the Affidavit dated 23rd June, 2023. Paragraphs 4 and 5 of the said Affidavit are reproduced herein below :

Paragraph No. 4 :

The property at Item Nos. A and B listed in Schedule B of the above Execution Application i.e. :

(A) Head Office : Office No. 201, 2nd Floor, Commerce House, Nagindas Master Road, Fort, Mumbai – 400023,

(B) Corporate Office : 203, Peninsula Corporate Park, Tower – 1, A Wing, Ganpatrao Kadam Marg, Lower Parel, Mumbai – 400013 are the Head Office and Corporate office respectively of Judgment Debtor No.1 and I found the same from the websites i.e. www.jupiteryellowdetail.com and www.sumergroup.co.in. A printout of webpage are annexed hereto and marked as Exhibits “A” and “A-1”.

Paragraph No. 5 :

With regard to property at Item Nos. C, G, H and I listed in Schedule B of the above Execution Application i.e. :-

(C) Sumer Trinity Vertical 3 property bearing FP No.1053 to 1056 of T.P.S. - IV of Mahim Division, New Prabhadevi Road, Dainik Samna Marg, Prabhadevi, Mumbai – 400025 belonging to and in possession of Judgment Debtor No.1.

I have obtained the details from the website of Judgment Debtor No. 1 i.e. www.sumergroup.co.in at the time of filing of the above execution application. The website claimed that the Judgment Debtor No. 1 has development rights and/or developing the above projects. Hereto annexed and marked as Exhibits “B” and “B-1” are the printouts of the webpage.

10. Upon perusal of the Affidavits filed by the Advocate for the Judgment Creditor along with the Exhibits annexed thereto, it appears that the information furnished by the Judgment Creditor is primarily based on personal details of Judgment Debtor No. 1 sourced from publicly accessible websites. However, the said

documents do not, in any manner, establish or substantiate the title of the Judgment Debtor to the properties mentioned at Sr. Nos. 1, 2, and 3 in the Warrant for Sale. Exhibits “A”, “A-1”, and “B” merely reflect the contact information of the Judgment Debtor and nowhere indicate or affirm that the Judgment Debtor is the owner of the said properties. In the absence of any documentary evidence demonstrating title, the material placed on record is insufficient to proceed further. Therefore, in my view, the Judgment Creditor is required to produce appropriate and legally admissible title documents establishing the ownership of the Judgment Debtor in respect of the aforesaid properties.

11. Ld. Advocate for Applicant / Judgment Creditor is directed to file Affidavit giving details details of the property based on on-line data base information. Pursuant to directions given by the Hon'ble Court in Chamber Summons No. 1094 of 2017 in Execution Application No. 83 of 2012 dated 26th September 2018, as per Para No. 18 of the said Order, Original Side Registry in execution is directed to verify and ascertain from Decree Holder moving execution to check the available online database and registries for registered charges, or ascertain independently that whether the property belongs to the Judgment Debtor and is capable of being put into execution. In view of the said direction, Advocate for Applicant / Judgment

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Creditor is directed to file Affidavit giving details of the property in question as mentioned in the said order.

12. In view thereof, matter is adjourned to 27th November, 2025.

18.11.2025

Commissioner for Taking Accounts