

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
EXECUTION APPLICATION NO. 290 OF 2020
IN
SUIT NO. 2442 OF 2012**

Atlanta Limited	Plaintiff / Decree Holder
V/s.	
Samrina Arif Khan	 Defendant/ Judgment Debtor
And	
Nirman Industrial Estate Co-op. Premises Society Ltd.	 Third Party Claimants

Ms. Aparna Devkar i/b. M/s. M.P. Vashi & Associates, Advocate for Decree Holder

Before : Mrs. Shonali K. Dighe
Commissioner for Taking Accounts
Date : 25th October, 2023

CALLED FOR DECIDING CLAIM / SETTLING PROCLAMATION OF SALE :-

1. In the present matter, Warrant of Sale dated 16th February, 2022 is lodged in this office against property situated at ;

(i) Plot bearing No. 1108 situated at Devrukhkar Wadi, Mind Space, Behind Evershine Mall, Link Road, Malad (W), Mumbai – 400 064.

(ii) Plot of land bearing Survey No. 429, Hissa No. 1/3, CTS No. 1069 / A / 2, ad-measuring about 5150 sq. yards equivalent to 4306.2 sq.mt. At village Malad, Taluka – Borivali, Behind Evershine Mall, Link Road, Malad (W), Mumbai – 400 064.

2. Today, the matter is placed for Deciding Claim against Objector and settling Proclamation of Sale against the property mentioned at Sr. No. 2 in Warrant of Sale.

3. Affidavit of Service proving service of Notice to Judgment Debtor issued under Rule 579 and Notice to Claimants issued under Rule 581 of Bombay High Court (Original Side) Rules is already on record.

4. Pursuant to Notice to Claimants, time to file claim was 1st June, 2022. Accordingly, this office in receipt of Affidavit of Claim notarized on 15th June, 2022.

5. Upon perusal of the matter, it appears that Decree Holder has filed Affidavit for issuance of Proclamation dated 13th October, 2022; wherein it is

mentioned that Warrant of Attachment dated 28th February, 2021 came to be issued in respect of two properties mentioned in Warrant of Sale.

6. Ld. Advocate submits that Nirman Industrial Estate Co-op. Premises Soc. Ltd. have filed their objection to auction showing CTS No. 1097A as CTS No. 1108. The said Objector has also filed Interim Application (L) No. 535 of 2021 for raising of attachment before the Hon'ble Court. She further submits that in view of pendency of Interim Application in respect of property No. 1 mentioned in Warrant of Sale, Decree Holder desires to proceed for issuance of Proclamation of Sale in respect of second property i.e. Plot of land bearing Survey No. 429, Hissa No. 1/3, CTS No. 1069 / A/2, At Village Malad, Taluka Borivali, Behind Evershine Mall, Link Road, Malad (W), Mumbai – 400 064, by keeping Warrant of Sale against first property pending. In support of the statement, Decree Holder has attached 'Description of property' at Exhibit "E" to the said Affidavit; wherein the name of Judgment Debtor i.e. Samina Arif Khan alias Dhanalaxmi Chandra Devrukhkar is shown at Entry at Sr. Nos. 1 and 3 as the owner of the property. The said Judgment Debtor has not filed her Affidavit in Reply opposing claim filed by Decree Holder; so also, has not filed any Application for raising of attachment before the Hon'ble Court.

7. In view of above, I am of the opinion that Proclamation of Sale can be issued and settled against property described at Serial No. 2 in Warrant of Sale dated 16th February, 2022.

8. Draft of Proclamation of Sale is settled as corrected against property at Serial No. 2 mentioned in Warrant of Sale. Office to engross the same and send to the office of Sheriff of Bombay.

9. As far as property at Sr. No. 1 of Warrant of Sale is concerned, matter is adjourned to 8th January, 2024. Office to place the matter under caption 'For Directions'.

25.10.2023

Commissioner for Taking Accounts