



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

**INTERIM APPLICATION NO. 1526 OF 2023
IN
EXECUTION APPLICATION(L)NO. 6852 OF 2023**

Kotak Mahindra Bank Ltd ..Applicant/Plaintiff

Versus

Hindustan Enterprises
& Anr ..Respondents/Defendants

***Ms.Nikita Pawar, with Nehal Deshmukh, Anand Poojari
i/b S.I. Joshi & Co, Advocates for the Applicant.***

**CORAM : B. P. COLABAWALLA, J
DATE : APRIL 21, 2023**

P.C.

The above Interim Application is filed seeking the following reliefs:-

- a) *“that the Defendants be directed to deposit decretal amount of Rs. 32,38,144.51 ps. with further interest on Rs.12,63,954/- from 23.02.2023 @24% p.a. till payment and/or realization thereof;*
- b) *that the Defendants abovenamed 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 since the Decree/Award dated 25.04.2017 passed by the Learned Arbitral Tribunal has remained unsatisfied for more than 30 days from the date of its passing;*
- c) *that the Defendants be detained in the 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 this Hon'ble Court be pleased to direct this Chamber Summons to appear on board of this Hon'ble Court after the period of 15 days from the date of passing order under*



prayers (a) and (b) hereinabove for the following further reliefs;

- e) that pending the hearing and final disposal of the Interim Application the order of injunction restraining the Defendants 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 Defendants on affidavit as prayed in 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 Defendants as prayed for in prayer clause (b) above;
- g) that the Defendants be directed to disclose their means on affidavit for satisfying the decree of the Plaintiffs under execution as per Section 51 of the Code of Civil Procedure;
- h) that the Defendants be arrested and detained in civil prison as per the provisions of section 51 of the Code of Civil Procedure;
- i) this Hon'ble Court be pleased to issue precept under Section 46 of Code of Civil Procedure, 1908 attaching the properties belonging to Defendants and disclose by the Defendants under order XXI rule 41 of C.P.C. and which are not within the jurisdiction of this Hon'ble Court.
- j) the properties and salary of the Defendants be attached and the Plaintiffs be allowed to recover their dues from the same;
- k) the Defendants be arrested and detained in the Civil prison after issuing show cause notice as per the provision of Order XXI Rule 37 as the decree for payment of money of Plaintiffs is not satisfied by the Defendants
- l) The Judgment Debtor Defendants 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;
- m) The Judgment Debtor be arrested and shall be brought before the Hon'ble Court as per the order XXI Rule 38 of the Code of Civil Procedure;”

2 The learned counsel appearing on behalf of the Applicant has tendered an affidavit of service dated 3rd April, 2023 evidencing the service of the above Interim Application on the



Defendants / Judgment Debtors. Despite service, none have appeared on their behalf.

3 In the present circumstances, I am satisfied that the Applicant is entitled to ad-interim reliefs in terms of prayer clauses (b) and (g) reproduced above.

4 In these circumstances, there shall be ad-interim relief against the Respondents in terms of prayer clauses (b) and (g). The affidavit as contemplated under prayer clauses (b) and (g) shall be filed by the Respondents within a period of four weeks from the date of service of this order on the said Respondents.

5 Place the above matter on Board for further reliefs on 20th June, 2023.

6 This order will be digitally signed by the Private Secretary/ 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].