

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

**INTERIM APPLICATION NO. 4945 OF 2022
IN
EXECUTION APPLICATION NO. 323 OF 2022**

Rustom Ginwalla ...Applicant

vs.

Farhad Ginwalla and Ors. ...Respondents

**WITH
INTERIM APPLICATION NO. 808 OF 2020
IN
EXECUTION APPLICATION NO. 323 OF 2022**

Farhad Ginwalla and Ors. ...Applicants

vs.

Zenobai Poonawala and Anr. ...Respondents

**WITH
INTERIM APPLICATION NO. 814 OF 2020
IN
EXECUTION APPLICATION NO. 322 OF 2022**

Farhad Ginwalla and Anr. ...Applicants

vs.

Zenobai Poonawala and Anr. ...Respondents

**WITH
INTERIM APPLICATION NO. 827 OF 2021
IN
EXECUTION APPLICATION NO. 323 OF 2022**

Rustom Ginwalla ...Applicant

vs.

Farhad Ginwalla and Ors. ...Respondents

Mr.Sameer Pandit a/w Ms.Sarrah Khambati i/b. Wadia Ghandy and Company - Advocates for Applicants.

Mr.Sohail Ahmed i/b. Mr.Rajendra Rathod - Advocate for Landlord - Developers - Sangam Estate.

Mr.Premalal Krishnan a/w Mr.Nadeem Shama, Leona Gurtado, Mr.Prashant Bothre, Mr.Siddharth Shishadhri i/b. Pan India Legal Services LLP - Advocates for Respondent No.1.

CORAM : S. M. MODAK, J.

DATE : 11th OCTOBER 2023

P. C. :-

INTERIM APPLICATION NO. 808 OF 2020

1. Heard learned Advocate for the Applicants and learned Advocate for the Respondent No.1.

2. There is an Arbitration Award in a dispute involving both these Partners. The Execution Application is filed. An Arbitration Petition under Section 34 of the Arbitration and Conciliation Act, 1996 preferred at the instance of Respondent got dismissed. Now, there is an Appeal preferred under Section 37 of the said Act. Admittedly, there is no stay. By way of this Interim Application No.808 of 2020, there is insistence on prayer clause (f) which reads thus :-

“f. That pending hearing and final disposal of the above Execution Application, this Hon’ble Court be pleased to issue a Warrant of Attachment in respect of all properties of the Firm mentioned in the

Schedule II set out in Column “J” of the captioned Application, and further, appoint the Court Receiver, High Court of Bombay, or such other person as this Hon’ble Court may deem fit as the Receiver in respect of all such properties along with all powers under Order XL of the Code of Civil Procedure, 1908, including power to sell the property so attached”.

3. The description of the property is given in Schedule-II of the Execution. There are three items. Amongst these parties, there is consensus about the mode of arrangement so far as the tenancy rights at Sr.No.1 of Schedule II. Even learned Advocate for the landlord is also present. He also submitted that the building is in dilapidated condition and majority of the tenants have given consent for development. Both the learned Advocates have also consented for handing over the possession of the tenanted premises as described at Sr.No.1. Both of them have agreed to handover the possession with the landlord and even learned Advocate for the landlord agrees that the necessary agreement will be executed. Both the contesting parties are having a key with both of them.

4. In view of that, following direction is issued :-

(a) Let both the parties to handover possession of the tenanted premises to the landlord.

- (b) After taking instructions from the landlord, learned Advocate submitted that he will deposit the agreed transit rent with the Office of Prothonotary.
- (c) It is pointed out that the premises is in the custody of Commissioner appointed by the learned Arbitrator. So, let both the parties to communicate with the Commissioner and then, further process of handing over possession be undertaken.

INTERIM APPLICATION NO. 4945 OF 2022

5. Heard both the learned Advocates. Read the order dated 4th May, 2023. Respondent Nos.3 to 17 are restrained from allowing Respondent No.1 to deal with the assets mentioned in the disclosure affidavit until further orders. Now, the Applicant wants those Respondents to disclose on affidavit about complete details of the account of Respondent No.1 maintained by them for the relevant financial years.

6. The prayer is opposed on behalf of Respondent No.1 for the reason that Commercial Appeal against the order dated 4th May, 2023 is pending. Admittedly, there is no stay granted to the said order. This Court has also noted in the said order (Para No.5) that Respondent No.1 has transferred Rs.1,00,00,000/- (Rupees One Crore) from one of the accounts to her father-in-law's account. Even if the Respondents are directed to file

disclosure affidavit, I do not think that any harm is going to cause to Respondent No.1.

7. Prayer clause (a) reads thus :-

“(a) this Hon’ble Court be pleased to direct Respondent Nos.3 to 17 to disclose to this Hon’ble Court by way of an Affidavit, the full and complete statement of any and all accounts of Respondent No.1 held with Respondent Nos.3 to 17 for the last three financial years i.e., FY2019-20, FY2020-21 and FY2021-22 till the date of passing of the order;”

8. Hence, ad-interim relief is granted in terms of prayer clause (a). Let those disclosure affidavits be submitted on or before second week of December, 2023.

9. Those Respondents also to give details for the financial year 2022-2023.

10. Stand over to **13th December, 2023** along with Interim Application No.4132 of 2022 and Interim Application No.4141 of 2022.

[S. M. MODAK, J.]