

Sharayu Khot.

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

INTERIM APPLICATION (L) NO. 9609 OF 2024

IN

EXECUTION APPLICATION (L) NO. 2345 OF 2024

Aslam Shaikh & Anr.

...Applicants (Orig.
Plaintiffs/Judgment
Creditors)

Versus

Dinesh Shishupal Punia

...Respondent/
(Orig. Defendant/
Judgment Debtor)

Mr. Sarosh Bharucha, Mr. Shrey Fatterpekar, Mr. Ameet Mehta, Mr. Nirav Marjadi, Ms. Srushti Mehta, Ms. Rebha Dogra and Mr. Kushal Harnesha i/by Solicis Lex for the Applicants/Plaintiffs.

Mr. Hemant Ghadigaonkar for the Respondent.

Mr. Nealanshu Roy i/by Sirius Legal for CFXA ARC.

CORAM : R.I. CHAGLA J

DATE : 27 January 2025

SHARAYU
PANDURANG
KHOT

ORDER :

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1. Heard Mr. Sarosh Bharucha, the learned Counsel for the Applicants and Mr. Hemant Ghadigaonkar for the Respondent.

2. Mr. Bharucha has pressed for an order to be passed under proviso (b) of Section 51 of the Code of Civil Procedure, 1908 for civil detention of the Respondent on the ground that the Respondent has deliberately failed to satisfy the decree or part thereof, despite having the means to do so. He has placed reliance on the judgment of this Court in **Trimurti Exports Vs. Modelama Exports Limited**¹.

3. Mr. Bharucha has referred to the Disclosure Affidavit filed by the Respondent dated 16th July 2024, wherein the Respondent has provided bank account statements. He has submitted that from these bank account statements, it is evident that the Respondent has received large amounts of money, which have been primarily transferred to his wife and sons over the last few years. He has referred to the tables of the relevant entries contained in the bank account statements, which are at Exh.B colly. to the Affidavit dated 6th August 2024 filed on behalf of the Applicants.

4. The Respondent has filed Affidavit in Rejoinder dated

¹ (2016)5 Bom CR 636 paragraphs 15 to 18

26th August 2024, wherein the loan and advances to his wife Manisha Punia and two sons, namely Rishabh Puniya and Yash Punia have been mentioned.

5. This Court is not satisfied with the explanation given for the loan and advances to the Respondent's wife and sons, particularly in the said Affidavit in Rejoinder. Thus, it would be necessary for the Respondent to file further Disclosure Affidavit giving better particulars of these transactions as mentioned in paragraphs 3(b)(i) to (iii) of the Affidavit in Rejoinder as well as the amounts which are currently standing to the credit of the Respondent from these transactions. The Disclosure Affidavit shall be filed by the Respondent within a period of one week from the date of this order.

6. On the next date, the prayer sought for by the Applicants/Decree Holders viz. civil detention of the Respondent under proviso (b) of Section 51 of the Code of Civil Procedure, 1908 and issuance of show cause notice in respect thereof shall be considered.

7. Place the Interim Application along with the Execution

Application on 4th February 2025 to be shown as High on Board.

8. The Respondent shall remain present on the next date.

[R.I. CHAGLA J.]