

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY**

**ORDINARY ORIGINAL CIVIL JURISDICTION**

**IN ITS COMMERCIAL DIVISION**

**COMMERCIAL EXECUTION APPLICATION NO. 66 OF 2023**

Vivriti Capital Limited ... Applicant

Versus

Bell Finvest India Ltd. ... Respondent

**WITH**

**INTERIM APPLICATION NO. 3317 OF 2025**

**INTERIM APPLICATION NO. 3415 OF 2023**

**IN**

**COMMERCIAL EXECUTION APPLICATION NO. 66 OF 2023**

.....  
Mr. Ziyad Madon alongwith Mr. Benedicta Lobo and Mr. Mahtab Katariya instructed by Katariya & Associates, Advocate for the Applicant in COMEX-66-2023.

Mr. Ansh Karnawat alongwith Mr. Vinit Mehta and Ms. Ritika Singh, Advocate for the Applicant in IA-3317-2025 and for the Respondent in COMEX-66-2023 and IA-3415-2023.

Mr. D.S. Choudhary, Deputy Sheriff, present.

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**CORAM : ABHAY AHUJA, J.**

**DATE : 16 JULY 2025**

**PC. :**

1. Mr. Madon, learned Counsel, appearing for the Applicant had on 13<sup>th</sup> June 2025 tendered across a draft amendment, submitting that although the said amendment was allowed to be carried out to

Column-J pursuant to the order dated 2<sup>nd</sup> May 2025, however, the said amendment remained to be carried out in the warrant of attachment and warrant of sale that had also been issued earlier. That therefore the request was that as a consequential amendment, this Court may permit the same.

2. Mr. Karnawat, learned Counsel, appearing for the Respondent/Judgment Debtor had sought some time on 13<sup>th</sup> June 2025 to consider the same.

3. Today when the matter is called out, Mr. Karnawat submits that the tenancy cannot be attached.

4. Mr. Madon has tendered across the bar a Full Bench decision of this Court in the case of *Tangerine Electronics Systems Pvt. Ltd., Mumbai vs. Indian Chemicals, Mumbai and others And Shahid Shaukat Sarkar of Mumbai and others*<sup>1</sup>, where this very question had been considered and the Full Bench has clearly held in paragraph 40 that interest of the tenant of non-residential premises to which the Maharashtra Rent Control Act, 1999 applies, is attachable and saleable in execution of the decree against the tenant. Paragraphs 3 and 40 of the said decision are usefully quoted as under :

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1 2004(2) Mh.L.J. 305

“3. In the order of reference, the learned Single Judge has not narrated the necessary facts. The learned counsel for the parties were not ad-idem on facts before us. Bereft of facts, in the circumstances, the neat question of law for our consideration is; whether the interest of the tenant of non-residential premises to which the Maharashtra Rent Control Act, 1999 applies, is attachable and saleable in execution of the decree against the tenant ?

40. We, therefore, conclude that the tenant’s right to remain in occupation of the non-residential premises governed by the Maharashtra Rent Control Act, 1999 is a property; such property is saleable and the tenant has disposing power over the interest of tenancy for his benefit and in view thereof, we hold that the interest of the tenant of non-residential premises to which the Maharashtra Rent Control Act, 1999 applies is attachable and saleable in execution of the decree against the tenant.”

5. When this Court is again about to pass the order, Mr. Karnawat interjects and submits that he was not objecting to the attachability of tenancies but to the jurisdiction of this Court to pass such an order. I am afraid that Mr. Karnawat’s objection is stated to be rejected. This Court in execution can direct attachment and sale of all

properties including tenancies. The Full Bench decision is of this Court where this very question has been answered by this Court.

6. Accordingly, the draft amendment tendered by Mr. Madon on 13<sup>th</sup> June 2025 is allowed.

7. Let the amendments to the warrant of attachment dated 11<sup>th</sup> January 2024 and warrant of sale dated 5<sup>th</sup> June 2024 as per the draft amendment be carried out within a period of one week.

8. Re-verification is dispensed with.

9. The Execution Department to act in accordance with law.

10. Mr. Choudhary, learned Deputy Sheriff, present in Court, submits that in view of the above, Sheriff's Report would need to be disposed of and a fresh report would have to be placed before this Court, so that the tenancy rights can also be valued.

11. In view of the above, the Sheriff's Report No.23 of 2025 stands disposed.

12. Let a fresh report be placed before this Court.

**(ABHAY AHUJA, J.)**