

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
COMMERCIAL EXECUTION APPLICATION NO. 66 OF 2023
IN
TRANSFERRED DECREE DATED 27.01.2022
IN
CIVIL (COMMERCIAL) SUIT NO. 650 OF 2019
BEFORE
THE HON'BLE HIGH COURT OF JUDICATURE AT MADRAS**

Vivriti Capital Ltd. Applicant / Decree Holder
V/s.
Bell Finvest India Ltd.
& Ors. Respondents / Judgment Debtors

Ms. Benedicta Lobo, i/b. M/s. Katariya & Associates, Advocate for Applicant.

Mr. Vinit J. Mehta, Advocate for Respondent No. 2.

Before : Mrs. Shonali K. Dighe
Commissioner for Taking Accounts
Date : 12th November, 2024

CALLED FOR SETTLING PROCLAMATION OF SALE:

- Sr.no.7
1. Today, the matter is placed for settling Proclamation of Sale.
 2. Ld. Advocate for Applicant submits that, by Notice dated 25th September 2024 addressed to the Secretary / Chairman, Maker Chambers V Premises Co-operative Society Ltd., the Commissioner for

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Taking Accounts, High Court, Bombay, sought information as mentioned therein in respect of immovable property of Respondent No. 2 viz. Bhupesh Mohanlal Rathod. Ld. Advocate further submits that, pursuant to said Notice dated 25th September 2024 addressed to the Secretary / Chairman, Maker Chambers V Premises Co-operative Society Ltd. has sent Letter dated 18th October, 2024. It is informed that, Mr. Bhupesh Mohanlal Rathod, is not a member of the society, not owner of the office or connected with the society in any way. As per society's record, the names of members are Mr. Raghuvir Prasad Bagadia and Mr. Sushilkumar Bagadia in respect of the Office No. 1107 in Maker Chambers V. Premises Co. Operative Society Ltd., situated in Jamnalal Bajaj Road, Nariman Point, Mumbai 400 021. Society has also annexed Copy of Share Certificate No. 639 showing names, enrolled as members are Mr. Raghuvir Prasad Bagadia and Mr. Sushilkumar Bagadia in respected of the said property.

3. Ld. Advocate further submits that even though 50% of the share was purchased by Bhupesh Mohanlal Rathod, society has not added his name and therefore, Share Certificate is not issued in the name of said Respondent No. 2.

4. Ld. Advocate for Respondent No. 2 submits that, Decree cannot be executed in the name of his client as the documents of property are in the name of Respondent No. 1. He further submits that,

Respondent No. 2 is only one of the director and therefore cannot be made liable for repayment on-behalf of Respondent No. 1. Ld. Advocate further submits that, Applicants are required to amend Execution Application.

5. Ld. Advocate for Respondent No. 2 submits that, Debt Recovery Tribunal had already attached property in the name of Respondent No. 1 and not Respondent No. 2. As the property mentioned in Warrant of Sale is already attached the present Warrant of Sale cannot be executed against the property which is already attached by Debt Recovery Tribunal.

6. Ld. Advocate for Applicant submits that, she will verify with the orders passed by Debt Recovery Tribunal, so also, she will apply for amendment of the Execution Application, if required.

7. In view of the above, matter is adjourned to 03rd December, 2024.

12.11.2024

Commissioner for Taking Accounts