

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
COMM. EXECUTION APPLICATION NO. 219 OF 2020
IN
COMM. SUMMARY SUIT NO. 216 OF 2018**

Sukhdev Singh Bansal Decree Holder
 V/s.
M/s. K. T. Group & 4 Ors. Judgment Debtor
 And
Sharon Sheth Third Party Claimant / Objector

Mr. Tejas Sangharajka, Advocate for Decree Holder
Mr. Dheeraj Patil, Advocate for Judgment Debtor
Mr. Sukhdev Singh Bansal, Decree Holder present in person

Before: Mrs. Kanchan M. Rane
I/c. Commissioner for Taking Accounts
Date : 13th September, 2022

CALLED FOR DIRECTIONS :

1. Heard Ld. Advocate for Decree Holder as well as Ld. Advocate appearing for Sharon Sheth, Third Party Claimant; who has filed objection being Inward No. 2695 of 2022 to the Notice to the Claimants issued as per Rule 581 of Bombay High Court (Original Side) Rules published in two newspapers i.e. "Free Press Journal" and "Janmabhoomi" on 25th January, 2022 pursuant to Warrant of Sale lodged by Decree Holder in the office of Commissioner for Taking Accounts.
2. The Section Officer has brought to my notice that Notice under Rule 581 of Bombay High Court (Original Side) Rules has been published in the newspapers on 22nd January, 2022 wherein time to file claim / objection against the property is to be lodged on or before 28th February, 2022 to this Registry / office. However, Mr. Dheeraj Patil, Advocate for Third Party (Objector) has filed Affidavit of Objection in this office on 30th March, 2022. Ld. Advocate for Decree Holder submits that the said Affidavit of Objection may not be heard on the ground of delay in filing the said Objection.

3. Upon perusing the Affidavit of Objection, it appears that the property under sale is gifted as per Gift Deed dated 8th December, 2017 and in Paragraph (3), he states that the said Gift Deed is legal and valid. In Paragraph (9) of the said Affidavit, Objector states that the said Flat No. 705 mentioned in Warrant of Sale not to be sold.

4. Ld. Advocate for Decree Holder submits that the Objector is Third Party and they want to file suitable Reply to the objection filed by Third Party (Objector), if copy of the same is served upon him by the Advocate for Third Party (Objector).

5. In the present matter, Warrant of Sale has been lodged in this office in respect of properties mentioned therein i.e. Flat Nos. 703, 704, 705 and Shop No. 6. The above objection filed by the Third Party (Objector) is in respect of Flat No. 705. Ld. Advocate for Decree Holder submits that this office may proceed further for settlement of Proclamation of Sale in respect of properties i.e. Flat Nos. 703, 704 and Shop No. 6 as per law in execution of the Decree.

6. In view of above, Ld. Advocate for Decree Holder is directed to submit details of attached properties described in Warrant of Sale alongwith relevant documents, if any, available with him in respect of properties i.e. Flat Nos. 703, 704 and Shop No. 6; such as (i) ownership as per record of Society of said properties (ii) area of the said properties (iii) dues of Society maintenance of the said properties (iv) Share Certificates of the said properties and (v) information about charges, lien and mortgage on the properties and all other information and documents pertaining to said properties mentioned here-in-above.

7. Ld. Advocate appearing for Third Party (Objector) is directed to serve copy of the Affidavit of Objection dated 24th March, 2022 to the Advocate for Decree Holder. Ld. Advocate for Decree Holder is directed to file their Say / Reply on the said Affidavit of Third Party / Objector on or before next date.

8. In view of above, matter is adjourned to 17th October, 2022.