

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

EXECUTION APPLICATION NO. 2225 OF 2016

IN

ARBITRATION REFERENCE NO. COS/28 OF 2015

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|-----------------------------------|------|----------------------|
| The Cosmos Co-operative Bank Ltd. | | Disputant |
| V/s. | | |
| R K D Telecom Pvt. Ltd. & Ors. | | Opponents |
| And | | |
| State Bank of India | | Third Party Claimant |

Mr. Jayant Gaikwad, Advocate for Claimant.

Ms. Radhika Chamaria i/b. Ms. Preeti Shinde, Advocate for Opponent Nos. 2 and 3

Ms. Asmita Mourya i/b. Mr. Vivek S. Sawant, Advocate for Third Party Claimant

Before : S. T. Kapse

Commissioner for Taking Accounts

Date : 17th December, 2021

CALLED FOR DIRECTIONS :

1. In the present matter, Warrant of Sale has been lodged in this office for issuance of Proclamation of Sale in respect of properties mentioned therein. After lodgement of Warrant of Sale, this office has issued Notice to the Claimant as well as to the Judgment Debtors. Ld. Advocate for Decree Holder has published Notice to the Claimant and also to the Judgment Debtor. He tendered Affidavit of Service to that effect. The same is taken on file.

2. Ms. Radhika Chamaria instructed by Ms. Preeti Shinde tendered Vakalatnama on behalf of Opponent Nos. 2 and 3. Ld. Advocate for Opponent Nos. 2 and 3 submitted that as per her instructions, Opponent Nos. 2 and 3 have

not received any proceeding in the matter except Notice issued by this office. In view thereof, Ld. Advocate for Opponent Nos. 2 and 3 to take such steps as may be required for obtaining copies of the same. Ld. Advocate for Opponent Nos. 2 and 3 to file Affidavit giving details of all the properties in respect of name of the owner, area of the property, whether any maintenance is outstanding as per the records of the Society, xerox copy of Share Certificates issued, whether any lien, mortgage, claim or any other charge or encumbrances are recorded in the records of the Society and whether flat has been subletted and if subletted, whether NOC is obtained from Society by owner. Ld. Advocate for Opponent Nos. 2 and 3 to file the said Affidavit and serve copy of the same on the other side on or before next date.

3. On the other hand, Ld. Advocate for Third Party Claimant i.e. State Bank of India submitted that in the present matter, they have a prior charge in respect of attachment of one of the properties of the Judgment Debtor i.e. Unit No. 5, Mezzanine Floor and First Floor, Equal Star Industrial Estate, CTS No. 268, Plot No. 12, Survey No. 73, Hissa No. 1, Village Pahadi, Vishweshwar Road, Off Aarey Road, Goregaon (East), Mumbai 400 063. It appears that by its letter dated 03.12.2021, Asstt. General Manager of State Bank of India has also informed this office about the said charge. Ld. Advocate for Third Party Claimant to file Affidavit to that effect and furnish copy of the same to the other side on or before 22.12.2021. It is further informed that the Third Party Claimant has filed an Intervener Application i.e. I.A. No. 1065 of 2020 to vacate the attachment from the said properties. However, Ld. Advocate for Decree Holder submitted that the said Application is filed in other proceedings.

4. Adjourned to 24.01.2022.

17.12.2021

Commissioner for Taking Accounts