



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

INTERIM APPLICATION (L) NO.16702 OF 2023  
IN  
COMMERCIAL EXECUTION APPLICATION (L) NO.16273 OF 2023

Cherag Shah ... Applicant  
Vs.  
Harshwardhan H. Sabale and anr. ... Respondents

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Mr. Rashmin Khandekar with Ms. Karishni Khanna, Mr. Turab Ali Kazmi and Ms. Hardika Kukreja i/by M/s S & K Partners, Advocates for the Applicant/Judgment Creditor.  
Mr. Siddharth Bafna with Mr. Arpit Solanki and Ms. Rinu Kallan i/by M/s Integrum Legal, Advocates for the Judgment Debtor No.1.  
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CORAM : ABHAY AHUJA, J.  
DATE : 18 MARCH, 2024.

**PC.** :

1. On 11<sup>th</sup> March, 2024, after hearing the parties, the following operative order was passed:

“15. In this view of the matter, this Court is constrained to pass the following orders:-

i) Registry is directed to issue notice to the Judgment Debtor No.1 under Order 21 Rule 37 of the Code of Civil Procedure, calling upon him to appear before this Court on 18<sup>th</sup> March, 2024 and show cause as to why he should not be committed to civil prison.

ii) The notice also to clearly specify that the Judgment Debtor

No.1 he would also be orally examined with respect to his assets under Order 21 Rule 41 and that he remain present with full and complete instructions/details in that regard.

iii) Needless to say that till the amount of Rs. 49,35,82,398.36 is deposited with the Prothonotary and Senior Master of this Court, the status-quo orders of this Court dated 30<sup>th</sup> January, 2024, 9<sup>th</sup> February, 2024 and 14<sup>th</sup> February, 2024 to continue to operate and the said Award Debtor is not permitted, in any manner whatsoever, to operate his bank accounts (disclosed or undisclosed).

16. List on **18<sup>th</sup> March, 2024** on the Supplementary Board. Let this order and the next date be personally intimated to the Judgment Debtor No.1.”

2. Today when the matter is called out, Mr. Siddharth Bafna, learned counsel appears for the Judgment Debtors and submits that there is a look out circular that has been issued against the Judgment Debtor No.1 who is not in the country but in the United Arab Emirates (“U.A.E.”) and submits that tomorrow the Anticipatory Bail Application has been listed before the Sessions Court.

3. Obviously, therefore, the Judgment Debtor No.1 has failed to personally remain present before this Court in accordance with the orders of this Court.

4. Mr. Khandekar, learned counsel for the Judgment Creditor would submit that therefore this Court issue Non Bailable Warrant against the Judgment Debtor No.1 and secure his presence by directing the Police Authorities, Home Ministry/Ministry of External Affairs to issue a Red Corner Notice against Judgment Debtor No.1 after which he can be committed to civil prison for having failed to show cause as to why he should not be committed to civil prison.

5. The learned Registrar of the Execution Department and the Deputy Sheriff have informed that the service of the Show Cause Notice has been effected upon Judgment Debtor No.1.

6. Mr. Khandekar further submits that now that it is clear that the Judgment Debtor No.1 is in flagrant and willful disobedience of the orders of this Court, let the following accounts disclosed in the affidavit of disclosure dated 7<sup>th</sup> February, 2024 and the amounts lying therein as indicated against the account numbers be attached:

- i. Axis Bank Account No.921010013529564 - Closing Balance - INR 6,14,530.14
- ii. ICICI Bank Account No. 333701501301 - Closing Balance - INR 1,38,809.83

- iii. ICICI Bank Account No.344901000352 - Closing Balance - INR 27,79,228.95
- iv. ICICI Bank Account No.344905500008 - Closing Balance - INR 94,042.19
- v. ICICI Bank Account No.3122401500240 - Closing Balance - INR 26,574.60
- vi. HDFC Bank Account No.50100677161031 - Closing Balance -INR 1,64,16,938.88.

7. Mr. Khandekar further submits that this Court appoint Court Receiver to take charge of all the demat accounts of the Judgment Debtor No.1 disclosed by his further affidavit dated 7<sup>th</sup> February, 2024 and also to take charge of all the unencumbered shares of Varanium Cloud Limited of the Judgment Debtor No.1 held in demat account No.IN30246110947218 with ACML Capital Markets Limited. Learned counsel submits that Court Receiver also be appointed to take physical possession of residential flat No.3 Saiba Complex, S. No.63/51, Kodhwa Complex, Pune 411 048 admeasuring 1169 sq.ft. and of residential flats No.103 and 104, Building No.A, 10<sup>th</sup> Floor, the Latitude, Pune 28/9, Kate Wasti Road, Near Balaji Temple, Kate Wasti, Punawale, Pune ad-measuring 1918 sq.ft.

8. Mr. Bafna, learned counsel for the Judgment Debtor No.1 seeks

some indulgence as far as residential flats No.103 and 104 of Building Building No. A, 10<sup>th</sup> Floor, the Latitude, Pune 28/9, Kate Wasti Road, Near Balaji Temple, Kate Wasti, Punawale, Pune are concerned submitting that the two flats are occupied by the unmarried sisters, of the Judgment Debtor No.1 and this Court show some mercy.

9. Having heard the learned counsel and having considered the submissions and the conduct of the Judgment Debtor No.1, it is clear that the Judgment Debtor No.1 is deliberately avoiding this Court and has been in violation/breach of the orders of this Court despite opportunity granted to him. Therefore, left with no option, this Court is constrained to issue Non Bailable Warrant against the Judgment Debtor No.1 directing the Commissioner of Police, Mumbai to secure his presence before this Court on the next date. If the submissions made on behalf of the Judgment Debtor No.1 that he is out of this country and in the U.A.E. are correct, the Commissioner of Police may also take steps to have a Red Corner Notice issued against the Judgment Debtor No.1 with the assistance of the Ministry of External Affairs, Government of India, New Delhi to secure his presence before this Court on the next date.

10. List on 1<sup>st</sup> April, 2024.

11. Since the Judgment Debtor No.1 has been disobeying the orders of this Court, it would be appropriate now to attach the bank accounts and the amounts lying therein as disclosed in the affidavit dated 7<sup>th</sup> February, 2024 and as submitted in paragraph 6 above.

12. Accordingly, the accounts and the balances lying in Axis Bank Account No.921010013529564, ICICI Bank Account Nos. 333701501301, 344901000352, 344905500008 and 3122401500240 and HDFC Bank Account No.50100677161031 and the amounts lying therein are hereby attached.

13. The learned Prothonotary and Senior Master, High Court, Bombay is requested to issue proclamation of attachment with respect to the Axis Bank Account No.921010013529564, ICICI Bank Account Nos. 333701501301, 344901000352, 344905500008 and 3122401500240 and HDFC Bank Account No.50100677161031 and the amounts lying therein.

14. Learned Court Receiver, High Court, Bombay is directed to within a period of 3 days : (i) take charge of all demat accounts as disclosed by Judgment Debtor by further affidavit dated 7<sup>th</sup> February, 2024 and including demat account bearing No.IN30246110947218 of the Judgment Debtor No.1 with ACML Capital Markets Limited and to take charge of all unencumbered shares of Varanium Cloud Limited of the Judgment Debtor No.1 held in the said demat account. (ii) take physical possession of residential flat No.3, Saiba Complex, S. No. 63/51, Kodhwa Complex, Pune 411 048 admeasuring 1169 sq.ft. and (iii) take symbolic possession of residential flats No.103 and 104, Building No.A, 10<sup>th</sup> Floor, the Latitude, Pune 28/9, Kate Wasti Road, Near Balaji Temple, Kate Wasti, Punawale, Pune ad-measuring1918 sq.ft..

15. Needless to say that, subject to the aforesaid orders the Judgment Debtor No.1 is forbidden in any manner whatsoever to buy or sell shares through any bank accounts (disclosed/undisclosed) or any demat account (disclosed/undisclosed) and, all the bank accounts and demat accounts held singly or jointly by the Judgment Debtor No.1 stand frozen until further orders.

16. Let a copy of this order be immediately communicated to the Judgment Debtor No.1 as well as the Court Receiver, High Court, Bombay the Commissioner of Police, Mumbai and the Ministry of External Affairs, New Delhi as well as to all the concerned banks/depositories /depository participants as well as the co-operative housing society(ies), if any, for compliance.

**(ABHAY AHUJA, J.)**