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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
CHAMBER SUMMONS NO. 1411 OF 2018
IN
COMMERCIAL EXECUTION APPLICATION NO. 160 OF 2019**

Tata Capital Housing Finance Limited ... Applicant

vs.

Heera Construction Company Private Ltd and ... Respondents
Ors

Adv. Nelly Mehta i/b. NMA Legal for the Applicant.

Ms. Vaidehi Kulkarni i/b. India Law LLP for Respondent No.1.

Mr. Shashwat Singh(on VC) a/w. Mr. Abhijeet C. Mahadeokar for
Respondent Nos. 2 and 3.

CORAM : GAURI GODSE, J.

DATED : 12th OCTOBER 2026

ORDER:

1. Learned counsel for the respondent has tendered an application on behalf of respondent no.2 for exemption from personal appearance. Learned counsel for the applicant submits that respondent no.2 is unwell and medically advised not to travel. The application is supported by a medical certificate from an Ayurvedic Centre. Despite the application for exemption from personal appearance, learned counsel for the respondents submits

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that respondent no. 2 has joined through Video Conferencing ("VC").

2. This Court is constrained to record that the person seen joining as respondent no. 2 was lying down on a bed without wearing clothes. This conduct must be deprecated. The person is therefore directed to leave the VC. Learned counsel for the respondent has tendered an apology for such conduct. The parties cannot be exhibited in such a manner before the court for seeking exemption from personal appearance. Although the application for exemption is not supported with any adequate and appropriate medical certificate, respondent no.2 is exempted from personal appearance for today. It is clarified that on the next date, respondent no. 2 shall either remain personally present or submit appropriate supporting medical papers on record if he is medically advised not to travel.

3. Learned counsel for the respondents has tendered an affidavit of respondent no. 3 stating that the next date before the Hon'ble Apex Court is scheduled for 4th November 2026. He submits that the Hon'ble Apex Court has stayed the directions issued by this Court on 16th January 2026 qua respondent no. 3. A copy of the order dated 9th February 2026 is also annexed to the affidavit filed

by respondent no. 3. The affidavit of respondent no. 3 is taken on record.

4. By the order dated 21st September 2026, this court had recorded that although respondent no. 2 had withdrawn the SLP filed by him, he has not yet filed an additional disclosure affidavit as directed vide orders dated 16th January 2026 and 4th February 2026. According to the learned counsel for respondent no.2, the disclosure affidavit is already filed in December 2025. Learned counsel for respondent no.2 has tendered an affidavit dated 6th October 2026, which, according to him, complies with the directions issued in orders dated 16th January 2026 and 4th February 2026.

5. Learned counsel for the applicant submits that, to date, the directions issued vide orders dated 16th January 2026 and 4th February 2026 have not been complied with. Learned counsel for respondent no. 2, who has joined through VC, submits that the disclosure affidavit of December 2025 contains all the disclosures. He further submits that in paragraph no. 6 of the affidavit dated 6th October 2026, respondent no. 2 has stated that apart from the flats in the name of respondent no.1 as mentioned in paragraph no.4 of his affidavit, respondent no.2 does not own any other property, bank account, shares, deposits, insurance policies, jewellery, receivables

or any other assets either individually or jointly. He further submits that no property stands in the name of respondent no.2 that is free and available for attachment and sale.

6. I have perused the affidavits. The affidavit dated 4th December 2025, filed by respondent no. 2, discloses some particulars. However, there is no positive statement that, except for the said disclosure, no other immovable or movable property stands in the name of respondent no.2. The statement made in paragraph no. 6 of the affidavit dated 6th October 2026 is a guarded statement with a clarification that no other property standing in the name of respondent no.2 is free and available for attachment and sale.

7. This Court, vide order dated 16th January 2026, directed that defendant no.2 disclose all immovable and movable property and all assets, whether encumbered or unencumbered. Hence, two affidavits relied upon by the learned counsel for respondent no.2 cannot be accepted as due compliance with the directions issued by the order dated 16th January 2026. As a last chance to respondent no.2, one week time is granted to file an appropriate affidavit making true and correct disclosures of all the assets, income tax returns, all the bank statements, all the immovable and movable assets, either encumbered or unencumbered, including all the particulars of the

receivables. All such particulars must be disclosed from 1st April 2016, with supporting documents. Such an affidavit shall be filed on or before 21st October 2026 with an advance copy to the learned advocate for the applicant.

8. It is clarified that if an appropriate affidavit of true and correct disclosure is not filed on or before 21st October 2026, this Court shall consider passing further directions, as permissible under Order XXI of the Civil Procedure Code, 1908, for execution of the award.

9. It is clarified that if any of the disclosure affidavits are not served on the learned advocate for the applicant, an appropriate cost will be imposed on the respondent on the next date.

10. Stand over to 26th October 2026.

(GAURI GODSE, J.)