



Shephali

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
IN ITS COMMERCIAL DIVISION
CHAMBER SUMMONS NO. 222 OF 2017
IN
COMM EXECUTION APPLICATION NO. 88 OF 2017
WITH
CHAMBER SUMMONS NO. 93 OF 2019
AND
CHAMBER SUMMONS (L) NO. 549 OF 2019
IN
COURT RECEIVER'S REPORT NO. 55 OF 2019
IN
COMM EXECUTION APPLICATION NO. 88 OF 2017**

Vistra ITCL (India) Ltd

...Applicant

Versus

Mighty Constructions Pvt Ltd & Anr

...Respondents

**Mr Cyrus Ardeshir, i/b Desai Desai Carrimjee & Mulla, for the
Applicant in Chamber Sumons (L) No. 549 of 2019.**

**Mr Pesi Modi, Senior Advocate, with Ms Kalpana Desai, Mr Nirav
Shah, Mr Anuj Jaiswal & Ms Priyanka Mehta, i/b Little & Co,
for the Respondents.**

**Mr JP Sen, Senior Advocate, with Mr DJ Kakalia & Ms Raghavi
Sharma, i/b Mulla & Mulla & Craigie, Blunt & Caroe, for the
Judgment Creditor.**

Mrs Kavita Ambekar, Ist Assistant to Court Receiver, present.

CORAM: G.S. PATEL, J
DATED: 30th April 2019

PC:-

1. Mr Ardeshir for the auction purchaser hands over a cheque in favour of the Court Receiver in the amount of Rs.7,68,75,000/-. This is the balance purchase price due.

2. As to possession of the purchase premises, the Court Receiver has been appointed but these are not under Receiver's seal or lock. I am informed that most of the staff in the Receiver's office is presently engaged or occupied in other assignments both in Mumbai and outside, and it is therefore not possible to make anyone available to deliver possession until the middle of next week. There is no reason the auction purchasers should have to wait for possession since they have paid the full consideration. Mr Modi for Respondents Nos. 1 and 2 confirms what the Receiver says, viz., that there is no lock or seal of the Receiver on the premises. Respondents Nos. 1 and 2 will take the necessary steps to put the auction purchasers in possession of the premises by 2.00 pm on Thursday, 2nd May 2019. The Court Receiver's representatives will issue the necessary formal documentation in the course of next week. I am making it clear that the documentation is a formality. The Receiver stands discharged as a receiver of the premises upon the auction purchasers taking possession of the premises.

3. The Court Receiver or the Prothonotary & Senior Master will then proceed to issue the necessary sale certificate, if possible before 15th May 2019 and will assist the auction purchasers in all matters regarding registration. The society in question is directed to effect the necessary transfer. It is clarified that it is not entitled to anything other than the statutorily permissible transfer fees.

4. It is clear that Respondents Nos. 1 and 2 are liable to pay all unpaid dues and charges up to today, 30th April 2019, and it is the auction purchasers who will have the liability and responsibility to pay these after 1st May 2019.

5. The Receiver has in his hands the entire consideration. After deducting the Court Receiver's commission, costs, charges and expenses, the balance is to be paid over to the Decree Holder/Applicants in execution and is to be applied towards partial satisfaction of the decree. The decree will be marked partly satisfied to the extent of the funds so received.

6. Mr Sen states that there will be some issues in regard to an amount of approximately Rs. 8 lakhs due as property tax or proper tax arrears. His attorneys and clients will check the position. If this amount is in fact due, they will communicate this to Mr Modi's attorneys for Respondents Nos. 1 and 2 with a copy to the Receiver. Mr Modi has instructions to state that if those dues are indeed payable, that payment will be made by the 1st and the 2nd Respondents within three weeks from the communication by the Advocates for the Respondents to the Advocates for the Applicants.

7. It is also agreed between the Decree Holder and Respondents Nos. 1 and 2 that if those two Respondents pay to the Decree Holder an additional amount of Rs. 5 crores on or before 25th May 2019, the Decree Holder's claim will be fully satisfied and the Decree Holder will then proceed to have the decree so marked fully satisfied within three weeks thereafter.

8. Liberty to the parties to apply

9. For this purpose, list the matter for directions and report compliance on 4th June 2019.

(G. S. PATEL, J)