

**BEFORE MAHARASHTRA REAL ESTATE APPELLATE TRIBUNAL
MUMBAI**

**MISC. APPLICATION NO. 405/2023 (Discl. of Property)
EX. NO. 04/2023**

IN

APPEAL NO. AT00600000053461 of 2021

Vijay Choksi

... Applicant

-VS-

SSSC Escatucs Pvt. Ltd.

... Non-applicant

Adv. Anmol Bartaria for Applicant.

Adv. Avinash Undare h/f Abhay Arora for Respondent No.1.

Adv. Prottyusha h/f Abir Patel for Respondent No.2.

CORAM : SHRI SHRIRAM. R. JAGTAP, MEMBER (J), &

DR. K. SHIVAJI, MEMBER (A)

DATE : 23rd OCTOBER, 2023

(THROUGH VIDEO CONFERENCE)

Learned adv. Anmol Bartaria for Applicant submits that despite direction of this Tribunal, The Respondents have failed to furnish details of their movable, immovable properties and personal assets including investments and therefore, ^esturn action is necessary to be taken against non-applicants and another prayer made in Misc. Application No.405 of 2023 that is to restrain the non-applicants from selling the flats is required to be allowed. It transpires from the record that despite direction of this Tribunal. Non-applicants have failed to furnish details with regard to their properties as ordered by this Tribunal on 04th August 2023, nor filed reply to M.A. No.405 of 2023. It means the non-applicants disobeyed the order of this Tribunal.

2. Apart from this non-applicants have failed to satisfy the decree, though they are having sufficient means.

3. Learned Adv. Anmol Bartaria further submits that the applicant will move application for issuance of warrant of arrest of non-applicants and till then the order to restrain, the non-applicants from selling the flats be issued.

S. Jagtap

Considering peculiar circumstances of case, we are of the view that the non-applicants having sufficient means failed to satisfy the decree i.e. failed pay the amount to the decree holder. Therefore, non-applicants are hereby restrained from selling the flats until further order.

4. Now Adv. Abir Patel for non-applicant no.2 submits that the second appeal filed by non-applicant is listed on 11th November for hearing. However, there is no stay to the order passed by this Tribunal or to the instant execution application. Therefore, Non-applicants are hereby restrained from selling the flats.

5. Adv. Abir Patel submits that he is not given an opportunity to file reply to Misc. Application No.405 of 2023. Records show that the applicant has filed M.A. No.405 of 2023 on 30-06-2023. This itself is sufficient to show that despite ample opportunity, non-applicant has failed to file reply to M.A No.405 of 2023. On the contrary, it is seen that progress of the matter is at stand still because non-applicants only. The non-applicants are deliberately not complying with order of this Tribunal.

6. Stand over to 04th January 2024 for further consideration.


(DR. K. SHIVAJI)

vk


(SHRIRAM R. JAGTAP)