

Atul

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
CHAMBER SUMMONS (L) NO. 1189 OF 2018
IN
EXECUTION APPLICATION NO. 116 OF 2008
IN
JAIPUR SUIT NO. 446 OF 2004**

Shree Navchitra Distributors Pvt Ltd ...Petitioner
Versus
Sippy Films & Ors ...Respondents

**WITH
CHAMBER SUMMONS (L) NO. 1389 OF 2018
IN
EXECUTION APPLICATION NO. 116 OF 2008
IN
JAIPUR SUIT NO. 446 OF 2004**

Shree Navchitra Distributors Pvt Ltd ...Petitioner
Versus
Sippy Films & Ors ...Respondents
And
Sholay Media & Entertainment Pvt Ltd ...Applicant

**Mr Archit Jayakar, with Shruti Bardia, i/b Jayakar & Partners, for
the Applicant in CHSL/1189/2018 & CHSL/1389/2018.
Mr Nitesh Menon, i/b Dua Associates, for Respondents in CHSL/
1189/2018.**

CORAM: G.S. PATEL, J
DATED: 17th September 2018

PC:-

1. Chamber Summons (L) No. 1389 of 2018 will have to be allowed. A reply is unnecessary. It is not even possible. This is why.
2. The Plaintiff filed this suit, a money claim for Rs. 10 lakhs with interest and other reliefs, in Jaipur in 2004. The Court decreed it in 2005. The Plaintiff filed this Execution Application in 2006, and it was ultimately numbered as Execution Application No. 116 of 2008. In execution, the Plaintiff sought to attach the negatives of the well-known film *Sholay* on the basis that it was an asset of one or more of the four Defendants.
3. This is demonstrably incorrect.
4. Exhibit "B" to the Chamber Summons is a copy of a registered Gift Deed dated 14th September 2000 by which Defendant No. 4 gifted to Sholay Media and Entertainment Pvt Ltd ("SMEPL"), a separate legal entity, neither a Defendant nor a Judgment Debtor, all rights over the film *Sholay*. This Gift Deed and the consequent transfer of all rights in the film were, therefore, as much as four years before the institution of the suit itself. There was no claim to the film *Sholay in specie*. It is only sought to be attached in execution.

5. I do not see how the Decree Holder can possibly proceed against this particular film. It was never an asset of any of the Judgment Debtors/Defendants from even before the date of institution of the suit. It is an asset vested in an outsider, SMEPL. There is no attempt to proceed against SMEPL as a garnishee.

6. While I will keep open all the Decree Holder's rights and contentions in regard to the other assets of the Judgment Debtors, , the present application by SMEPL will have to be allowed and the attachment over and in respect of *Sholay* will have to be raised.

7. The attachment in respect of the negatives of the film *Sholay* is raised forthwith.

8. Chamber Summons (L) No. 1389 of 2018 is made absolute in these terms.

9. On behalf of the Decree Holder, Mr Menon states that on the previous occasion, he incorrectly overstated the decretal claim. It is not Rs. 34,53,401.27 but a lesser amount of about Rs. 25 lakhs approximately. He agrees to provide a detailed working to Mr Jayakar. He seeks time till 19th September 2018.

10. It is clarified that the correct date of the Gift Deed is 14th September 2000 and not since 2011 as recorded in the order dated 3rd September 2018, when the actual document was not available.

11. List Chamber Summons (L) No. 1189 of 2018 on 19th September 2018.

(G. S. PATEL, J)