

EA-296/22

NOTICE TO SHOW CAUSE WHY EXECUTION SHOULD NOT ISSUE
(Order 21, Rule 22 & 16 of the Code of Civil Procedure)

IN THE COURT OF THE Honble W.S.C.

2392

At Secunderabad

Execution Petition No. 51 of 20 21

CS. Suit No. 191 of 20 18

Between :

M/s Silver Oak Realty

.....Decree Holder

AND

The Relationship Manager

.....Judgement debtor

To Silver Oak Realty, M/s Mehta & Modi
Homes, Sri Mohan Modi, Office - S-4-237/
3, 4 P. Nagar Mohan Mansion H.C. Road
Secunderabad.

WHEREAS J.D.R. Religare Invest has made
Application in this Court for Execution of Decree in Suit No. EP 51/21 of (on
the allegation that the said Decree has been transferred to him by assignment or
with out assignment this is to give Notice that you are to appear before this court on
the day 24/2/2023 to Show Case why Execution
should not be granted.

GIVEN under my hand and the Seal of the Court this day 1/2/23 of 20 23

[Signature]
SUPERINTENDENT
DEPUTY MAGISTRATE
SUPERINTENDENT
CIVIL COURT
SECUNDERABAD

IN THE COURT OF THE III SENIOR CIVIL JUDGE COURT, CITY CIVIL COURT AT
SECUNDERABAD

E.A.No. 916 of 2022

IN

E.P.NO. 51 OF 2021

IN

O.S.NO: 191 of 2018

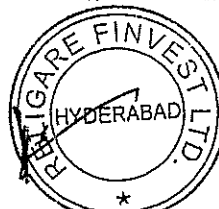
BETWEEN:

M/s. Religare Finvest Limited (RFL)
having it's Regd. Office at P-14 45/90,
P-Block, First Floor, Connaught Place, new Delhi- 110001
and also having its corporate office at
7th Floor Max House Block A, Dr Jha Marg Okhla Phase 3,
Okhla Industrial Estate New Delhi-110020
represented by its Authorised officer Mr.K Lakshman Singh
JDR/Defendant

M/s.Silver Oaks Rality
(Formally known as M/s. Mehta and Modi Homes)
Represented by its Managing partner
Sri.Mohan Modi, having its office at 5-4-137/3 & 4
IInd floor soham Mansion M.G.Road
Secunderabad.
...Respondent/DHR

AFFIDAVIT

I, M/s. Religare Finvest Limited (RFL) having it's Regd. Office at P-14
45/90, P-Block, First Floor, Connaught Place, new Delhi- 110001 and also having
its corporate office at 7th Floor Max House Block A, Dr Jha Marg Okhla Phase 3,

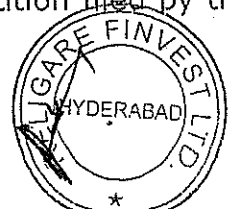


Dkhla Industrial Estate New Delhi-110020 represented by its AUTHORISED officer Mr.K Lakshman Singh do hereby solemnly affirm and sincerely state on oath as follows:

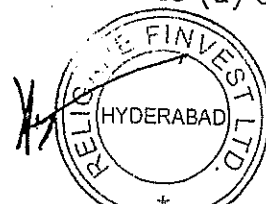
1. I am the petitioner herein and JDR in the above EP, as such I am well acquainted with the facts of the case and do hereby swear to the contents of this affidavit.

2. I submit that the above EP came to be filed pursuant to the decree dated 05.09.2019 passed in a suit bearing OS No. 191 of 2018 by the Honourable III Senior Civil Judge, City Civil Court, Secunderabad. I further submit that, after passing the above decree, the decree holders herein had filed an EP No. 51/2021 before the above Court, for execution of the decree for a sum of Rs. 4,73,838/-.

3. At the outset it is submitted that the Execution petition filed is neither maintainable in law nor on facts of the case and is liable to be dismissed in limini. This Judgment Debtor is advised to state that the Decree Holder committed perjury and are playing fraud on this Hon'ble Court. The Decree Holder used this Hon'ble Court as a forum to malign and to extort from this Judgement Debtor. This Judgement Debtor have gone through the plaint and deny all the allegations made therein, except to the extent of those which are specifically admitted hereunder. At the outset, this Judgement Debtor herein denies all the allegations made therein except to the extent of those which are specifically admitted to hereunder. It is submitted that the Execution petition is neither maintainable under law nor on facts, hence liable to be dismissed in limini. It is submitted that the Decree Holder has not set out true and correct facts of in the above Execution petition for seeking the relief prayed for and the Execution petition filed by the



Decree Holder is mere abuse of process of this Hon'ble court, It is submitted that the Execution petition filed is neither maintainable under law nor on facts, hence liable to be dismissed, It is pertains to mentioned that the Decree Holder had alleged that he has availed loan for 90 lakhs bearing loan account No. XMORPAN00048078 and monthly EMI 2,28,541 was repayable for a period of 60 months. But the Decree Holder had not revealed the real facts and obtained a fraud decree, it is pertains to mentioned that as per sanction letter submitted by Decree Holder in the Execution petition, the sanctioned amount was Rs.1,40,00,000 and initial period EMI was Rs.2,10,000. It is submitted that the Execution petition filed is neither maintainable under law nor on facts, hence liable to be dismissed. It is pertains to mentioned that. The Decree Holder is put to strict proof for the same. As per SOA, the 1st installment date was 1.07.2013 and the EMI payable till 1.12.2013 was 2,10,000 and from 01.01.2014, the EMI was 8,93,281. Customer defaulted in repayment EMI and the EMI cheque was bounced on various occasion.. Statement account is filed herewith for proof of the same The Decree Holder is put to strict proof for the same It is specifically denied by the Judgment Debtor as false and fictitious and the Decree Holder is put to strict proof for the same. It is pertains to mentioned that as the Decree Holder is chronic defaulter in repayment of dues, some TDS amount was adjusted towards pending charges/interest and balance amount was refunded to customer. Decree Holder failed to provide the proof showing that he had submitted necessary documents to this judgment debtor /defendant (like Form 16 A) for reimbursement of TDS, It is pertains to mentioned that as per the cause of action is in the year 2016 and the period of limitation is 3 years as such there is no cause of action to tile the above Execution petition. And this court had do not have jurisdiction to entertain the Execution petition as per section 20 (a) of Civil



procedure code the Execution petition has to be file where the Judgment Debtor resides and carry out the business. As such the Execution petition liable to dismissed in limini. In view of the above, it is just and necessary stay all further proceedings in the above execution petition as the JDR had preferred to set aside the decree which is filed on the false ground and obtain fraud decree, in the interest of justice

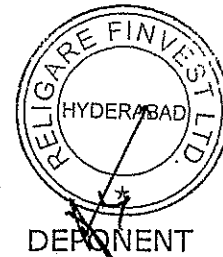
6. I, therefore, pray that this Honourable court may be pleased to stay all further proceedings in the above **execution petition**, otherwise I will be put to irreparable loss and injury.

Solemnly affirmed and signed on this the

29th day of August 2022 at

Hyderabad, before me:

S. M. S. Ahmed.
ADVOCATE : HYDERABAD



IN THE COURT OF THE III SENIOR CIVIL JUDGE COURT, CITY CIVIL COURT AT
SECUNDERABAD

E.A.No. of 2022
IN
E.P.NO. 51 OF 2021
IN
O.S.NO. 191 of 2018

BETWEEN:

M/s. Religare Finvest Limited (RFL)
having its Regd. Office at P-14 45/90,
P-Block, First Floor, Connaught Place, New Delhi- 110001
and also having its corporate office at
7th Floor Max House Block A, Dr Jha Marg Okhla Phase 3,
Okhla Industrial Estate New Delhi-110020
represented by its Authorised officer Mr.K Lakshman Singh

JDR/Defendant

M/s.Silver Oaks Rality
(Formally known as M/s. Mehta and Modi Homes)
Represented by its Managing partner
Sri.Mohan Modi, having its office at 5-4-137/3 & 4
IInd floor soham Mansion M.G.Road
Secunderabad.

...Respondent/DHR

PETITION FILED UNDER ORDER 21 RULE 26 R/W. SEC. 151 OF CPC

For the reasons stated in the accompanying affidavit, the petitioners
herein prays that this Honourable court may be pleased to stay all further
proceedings in the above **Execution Petition** and pass such other order or orders
as this Honourable court deems fit and proper in the circumstances of the case.

HYDERABAD

29.8.2022


COUNSEL FOR PETITIONER /JDR

outside copy

IN THE COURT OF THE III
SENIOR CIVIL JUDGE COURT, CITY
CIVIL COURT AT SECUNDERABAD

E.A.No. 296 of 2022\

IN

E.P.NO. 51 OF 2021

IN

O.S.NO. 191 of 2018

BETWEEN:

M/s. Religare Finvest Limited (RFL)
JDR/Defendant

M/s. Silver Oaks Rality
...Respondent/DHR

PETITION FILED UNDER
ORDER 21 RULE 26 R/W. SEC. 151
OF CPC

FILED ON: 28.2.2006

FILED BY:

DHARMENDER PRASAD

ADVOCATE
COUNSEL FOR PETITIONER