

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION

SUMMONS FOR JUDGMENT NO.6/2014
IN
SUMMARY SUIT NO.913/2013

M/s. Pioneer IT Solutions Pvt. Ltd.

... Plaintiff

V/s.

Sai Infosystem Pvt. Ltd. & Anr.

... Respondents

Mr. V. S. Pandey a/w. Vasim Sinddiqui i/b. S. U. Pandey for the Plaintiff
Mr. Nikhil Rajani /b. V. Deshpande & Co. for Defendant No.2.

CORAM: K.K. TATED, J.
DATED : DECEMBER 2, 2015

PC. :

1. Heard the learned counsel for the parties. The learned counsel for the Plaintiff, after taking instructions from his client, who is present in court, makes a statement that they are not pressing the Summons for Judgment against Defendant No.2. Statement is accepted.
2. Though Defendant No.1 is duly served none appeared for them. The learned counsel for the Applicant submits that they already filed Affidavit of service in the Registry. Statement is accepted.
3. In the present proceedings, the Plaintiff filed Summary Suit for recovery of sum of Rs.2,87,63,533/- with further interest on the sum of Rs.2,50,81,110/- along with 24% p.a. from the date of filing the suit till payment as per the particulars of claim as agreed between them.

4. The learned counsel for the Plaintiff submits that as per the purchase order placed by Defendant No.1 from time to time, they supplied computer systems to Defendant No.1. They also raised invoices for the supply. He further submits that the goods were delivered to Defendant No.1. In support of that the Plaintiff relies on delivery challan which are on page No.62 and 63 of the plaint. He submits that as the Defendant No.1 failed and neglected to pay their outstanding, the Plaintiff, through Advocate by legal notice dated 08/10/2013 called upon Defendant No.1 to pay outstanding of Rs.2,50,81,110/- with 24% p.a. As Defendant No.1 failed and neglected to comply with the said notice, they filed the present Summary Suit with the Summons for Judgment.

5. The learned counsel for the Plaintiff produced original documents. Same are seen and returned to the Advocate for the Plaintiff on condition that as and when the court requires the same, he would produce the same immediately.

6. Considering the submissions made by the learned counsel for the Plaintiff, after going through the delivery challan, invoices and other documents, I am satisfied that the Plaintiff has made out a case for a decree against Defendant No.1. Though the Plaintiff claimed interest @ 24% p.a., considering the facts and circumstances of the case and some of the tax invoices issued by the Plaintiff, it appears that the Plaintiff has claimed interest @ 18% p.a., I am of the opinion that, the Plaintiff is entitled to interest on principal amount of Rs.2,50,81,110/-

@ 12% p.a. from the date of issuance of legal notice dated 08/10/2013 till payment and/or realization of the entire amount.

7. As none appeared for the Defendant No.1 I am of the opinion that the Plaintiff is entitled to decree under Order XXXVII Rule 3(6)(a) of the Code of Civil Procedure, 1908.

8. Hence, following order is passed:

a. Summons for judgment is made absolute against Defendant No.1.

b. Defendant No.1 is ordered and decreed to pay to the Plaintiff sum of Rs.2,50,81,110/- with interest @ 12% p.a. from the date of issuance of legal notice dated 08/10/2013 till payment and/or realization of the entire amount.

c. Cost of the suit.

d. Summons for judgment stands dismissed against Defendant No.2.

(K.K. TATED, J.)