

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

**SUMMONS FOR JUDGMENT NO. 13 OF 2015
IN
SUMMARY SUIT NO. 14 OF 2015**

Indian Steel & Infrastructure Pvt. Ltd.	...	Plaintiff
vs.		
Soumit Ranjan Jena	...	Defendant

Mr. Anil Agarwal, Advocate for the plaintiff.
Defendant and advocate absent.

Coram : Smt. R. P. SondurBaldota, J.
Date : 29th September, 2015.

P.C. :

1. This Summons for Judgment is taken out by the plaintiff in the suit for recovery of sum of Rs.3,31,47,238/- and further interest at the rate of 18% p.a. on the principal sum of Rs.2,22,73,089/- being the price of goods sold and delivered.

2. Pursuant to the orders placed by the defendant with the plaintiff, it had sold and delivered goods of iron ore fines under five invoices in the aggregate sum of Rs.6,59,67,089/-. The details of the five invoices have been stated in the plaint. The defendant had agreed to pay the amount of each invoice within 15 days from the date of receipt of the invoice and pay interest at the rate of 24% p.a. on the delayed payment. The defendant received the goods along with the invoices. He did not raise any dispute as regards the quality, quantity, rates of the goods and the terms and conditions

of the sale. He issued certificate of export in Form 'H' under the Central Sales Tax (Registration and Turnover) Rules, 1957 in respect of all the five invoices. During the period 12th November, 2011 to 15th March, 2012, he paid an aggregate sum of Rs.4,36,94,000/- towards the price of the goods sold and delivered leaving balance of Rs.2,22,73,089/-. On 9th May, 2014 he issued nine cheques of different dates between 30th May, 2014 to 30th August, 2014 drawn on Axis Bank Ltd., M.I.D.C. Branch, Andheri in the aggregate sum of Rs.2,23,00,000/- towards the principal amount and part of the interest. When the plaintiff presented cheques for payment the same were dishonoured for the reason "funds insufficient". The plaintiff had then sent notice dated 10th October, 2014 to the defendant. However, the same returned undelivered, after which the plaintiff has filed the present suit.

3. The defendant has entered his appearance and filed affidavit-in-reply to oppose the Summons for Judgment. In his reply he claims for the first time that from time to time, whenever, goods were delivered, complaints of "low grade quality, rates and terms and conditions" were made to one Mr. Miky Srivastava of M/s. R. B. International, who had introduced the plaintiff to him. He further does not dispute receipts of the goods along with invoices from the plaintiff and issuance of certificate in Form 'H'. As regards the cheques issued to the plaintiff, the defendant claims

that the same had been issued in good-faith only for the purpose of showing some outstanding for the purpose of enhancement of agreed facility from the bank for the plaintiff.

4. After filing of the affidavit-in-reply, the defendant has not appeared before the Court. He was also absent when the Summons for Judgment was heard. Since the claim of the plaintiff is virtually admitted in the affidavit-in-reply and no material whatsoever, has been either relied upon or produced to support any of the contentions taken up in the reply, the plaintiff will be entitled to have the Summons for Judgment made absolute.

5. Hence, the Summons for Judgment is made absolute and the suit is accordingly disposed off.

[Smt. R. P. SondurBaldota, J.]

CERTIFICATE

Certified to be true and correct copy of the original
signed Judgment / order.