

IN THE HIGH COURT OF JUDICATURE AT BOMBAY**ORDINARY ORIGINAL CIVIL JURISDICTION****COMPANY PETITION NO. 376 OF 2013**

M/s.Kwick Financial Services

...Petitioner

vs.

M/s.Tranzlease Holdings India Pvt.Ltd.

....Respondent

None for the Petitioner.

Mr.Rustom Pardiwalla i/b. Mr.Dharmesh Joshi for Respondent.

CORAM : S.C. GUPTE, J.**29 JUNE 2015****P.C. :**

Heard learned Counsel for the Respondent. None appears for the Petitioner.

2 The purported debt on the basis of which the present company petition is filed consists of a sum of about Rs.49 lakhs being the service charges payable by the Respondent to the Petitioner for sanction of the loan of Rs.15 crores by M/s.Axis Bank to the Respondent. It is the case of the Petitioner that the Petitioner's services were engaged by the Respondent for obtaining this loan and for which consultancy fees or service charges of 2% of the loan amount were payable. The Petitioner has also filed a summary suit in respect of the same debt, which is pending before the City Civil Court at Dindoshi.

3 When this company petition came up for admission on 7 November 2014, by consent of parties, City Civil Court was directed to dispose of the Summons for Judgment. Accordingly, the Summons for Judgment was disposed of by the City Civil Court by its oral order dated 21 November 2014. The City Civil Court *inter alia* observed in its order that there was no document placed on record by the Petitioner to show that service charge at the rate of 2% of the loan amount was agreed between the parties, and that the liability to pay such charge

was disputed by the Respondent. The City Civil Court also found that the Respondent had forwarded a cheque of Rs.7,44,525/- towards the services of the Plaintiff for arranging the said loan in addition to a sum of Rs.1,50,000/- paid earlier by the Respondent to the Petitioner. The court was of the view that the disputes raised by the Respondent required consideration. The court, in the premises, passed a conditional order granting leave to defend on deposit of a sum of Rs.7,44,525/- in the court by the Respondent. This amount has since been deposited by the Respondent with the Registrar of the City Civil and Sessions Court in Dindoshi, Mumbai vide a Demand Draft dated 3 December 2014. In the premises, the company cannot be said to be unable to pay its debt.

4 The company petition is, accordingly, dismissed. There shall be no order as to costs.

(S.C. Gupte, J.)