

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

SUIT NO.366 OF 1997

Airport Authority of India	...	Plaintiff
Vs.		
Aer Lingus Ltd. & Ors.	...	Defendants

Ms. Radha Bhandari, Adv. i/b. M V Kini & Co. for plaintiff.
Mr. K G Singhania, Adv. a/w. Ms. Sarojini Patil, Adv. a/w. Mr. Nirav Punjani, Adv. for defendant Nos.1, 4 and 5.

CORAM : MRS. ROSHAN DALVI, J.
DATE : 2nd March, 2015.

P.C. :

I S S U E S

1. Whether the plaintiffs are entitled to claim charges for services and facilities rendered and lending charges from defendant No.1, who leased its aircrafts to defendant Nos.2 and 3 under the Aircraft Act, 1934 and the Rules thereunder.
2. Whether defendant Nos.2 and 3 are alone liable in respect of the aforesaid charges to the plaintiff.
3. Whether the plaintiff has colluded with defendant Nos.2 and 3 to claim the dues from defendant No.1.
4. Whether plaintiff has forfeited its right to recover dues by such collusion.
5. Whether the suit is maintainable against defendant Nos.4 and 5 which are aircrafts.
6. What relief, if any, is the plaintiff entitled to?

1. Issue No.1 shall be tried under the provisions of Order 15

Rule 3 of the CPC as its adjudication will determine whether or not the plaintiff would require to lead evidence about the extent of the claim of the plaintiff against the contesting defendant No.1.

2. Thereafter the issue regarding maintainability of the suit against defendant Nos.4 and 5 shall also be similarly considered under Order 15 Rule 3 of the CPC with regard to the plaintiff's claim against these defendants. If the plaintiff's claim is held to be maintainable against defendant Nos.4 and 5 the plaintiff shall have to lead evidence about the extent of the claim of the plaintiff.

3. Defendant Nos.2 and 3 have been wound up and official liquidator has been appointed. The official liquidator has been given notice of the hearing of the suit since he has been brought on record upon liquidation of defendant Nos.2 and 3. The claim against defendant Nos.2 and 3 has not been controverted by the defendant Nos.2 and 3 or the official liquidator. Hence that would have to be granted after considering the main issue against contesting defendant in the suit.

4. Suit is adjourned to 5th March, 2015 for considering the issue of law under Order 15 Rule 3 of the CPC. Part heard. First on board along with the suit No.4782 of 1997.

(ROSHAN DALVI, J.)