

Sequeira

*IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE SIDE JURISDICTION*

***CIVIL REVN. APPLICATION NO. 516 OF 2016
WITH
CIVIL APPLICATION NO. 613 OF 2016***

S.S. Steel Company. ... Applicant.
V/s.
Swiber Offshore (India) Ltd. & anr. ... Respondents.

Mr.K.A.Kharawala a/w Mr.Pradosh Patil i/b Lex Juris, for the Applicant in both CRA and CA.

Mr.Farhan Khan a/w. Ms. Virakthi Hegde i/b. HSV Legal, for Respondents.

***CORAM : N.M.Jamdar, J.
Tuesday, 06 September 2016.***

P.C. :

The Applicant challenges the order passed by the learned City Civil Court, Bombay dated 19 August 2016 rejecting the Notice of Motion taken out by the Applicant-Plaintiff for attachment before judgment.

2. When the Notice of Motion was moved on 2 August and when it was considered on 19 August 2016, summons to the suit was not served on the Respondents. At that stage, Court has found that the sufficient documents were not produced by the Applicant to

warrant attachment before judgment. The learned Judge held that it was not clear that the Respondents does have their material in Mumbai and are intending to dispose of the same.

3. The learned counsel for the Respondents-Company states that he has received instructions to appear for the Company and undertakes to file / tender vakalatnama in the City Civil Court in the suit. This undertaking is accepted.

4. Since the order was passed when the Respondents were not present and now the Respondents appeared in this Revision Applications, instead of adjudicating the rival contentions in this Revision Application for the first time, the appropriate course of action would be to permit the Applicant to move a Notice of Motion for seeking relief of attachment before judgment. The Respondents are put to notice that the Notice of Motion would be moved on 8 September 2016 in the City Civil Court. The learned counsel for the Applicant undertakes to give copy to the learned counsel for the Respondents.

5. In the circumstances the Civil Revision Application need not be considered. Notice of Motion if tendered by the Applicant, as per directions as above will be considered on its own merits. In the case the Respondents do not file their vakalatnama as above, then liberty to the Applicant to revive the Revision Application. The Revision

application is disposed of in above terms. Civil application also stands disposed of.

(N.M.Jamdar, J.)