

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

SUMMARY SUIT NO.524 OF 2016

Primesec Investments Limited & Anr.Plaintiffs

V/s.

Trusha Infrastructure Pvt. Ltd.Defendant

Mr. Simil Purohit a/w. Mr. Nirav Shah and Ms. Prachi Garg i/b. DSK
Legal for the plaintiffs.

None for the defendant.

CORAM : K.R.SHRIRAM,J

DATE : 29th SEPTEMBER, 2016

P.C.:-

1 The plaintiff has filed this suit for recovering a sum of
Rs.37,22,90,348.62/- from the defendant.

2 The plaintiff no.1 and the defendant had entered into a
loan agreement dated 28th June, 2012 whereby the plaintiff no.1
provided a loan facility of Rs.42 crores to the defendant for the
purpose of funding its investments. From the funds lent, the defendant
acquired 13 lakhs equity shares of Gitanjali Gems Limited. This
acquisition of 13 lakhs shares was funded by the plaintiff no.1. The
defendant by their advocates letter dated 28th March, 2013, copy
whereof is at Exhibit 'F' to the plaint, has admitted that an amount of
Rs.21,59,85,929.05/- is owed by the defendant to the plaintiff no.1 for
the purchase of the 13 lakhs shares of Gitanjali Gems Limited, which

included the principal loan amount of Rs.20,33,20,167.85/- as well as interest and upfront fees, etc.

3 The defendant, therefore, has admitted its liability. Various other purchases were funded by the plaintiff and the amount is totaling to a sum of Rs.40,72,20,167.85/-. The plaintiff claim to have received a sum of Rs.20,39,00,000.00/- leaving a balance of Rs.20,33,20,167.85/-. The plaintiff is also claiming processing fees at 1.5% and interest at 17% p.a. (the loan agreement provides for interest at 14% p.a. payable quarterly) and after adjusting the dividends received, the net receivables, according to the plaintiff, from the defendant is Rs.37,22,90,348.62/-.

4 The plaintiff has served the writ of summons and the copy of the plaint upon the defendant but the packet was returned with the endorsement “refused”. The plaintiff’s affidavit of service is also on record. Refusal to accept service is good service. The defendant has also not entered any appearance nor filed any application for leave to defend.

5 Therefore, under Order 37, Rule 3, the plaintiff is entitled to judgment. The suit stands decreed as under :

- (a) net funding – Rs.20,33,20,167.85/-,
- (b) Add : Processing Fees @ 1.5% - Rs.30,49,802.52/-,
- (c) simple interest @ 9% from 29th June, 2012 till 22nd March, 2016 – Rs.7,77,71,875.55/-,
- (d) Total Rs.28,41,41,845.92/-,
- (e) Less : Dividend received – Rs.39,00,000.00/-
- (f) Net receivables Rs.28,02,41,842.92/- together with further interest from 23rd March, 2016 till payment/realisation @ 9% p.a. on Rs.20,33,20,167.85/- and
- (g) cost in the sum of Rs.25,000/-.

(K.R.SHRIRAM,J)