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

SUMMARY SUIT NO.525 OF 2016

Primesec Investments Limited & Anr. ….Plaintiffs

V/s.

Sarvin Mercantile 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.21,42,11,874.37/- from the defendant.

2 The plaintiff no.1 and the defendant had entered into a loan agreement dated 3rd July, 2012 whereby the plaintiff no.1 provided a loan facility of Rs.36 crores to the defendant for the purpose of funding its investments. From the funds lent, the defendant acquired 11 lakhs equity shares of Gitanjali Gems Limited. This acquisition of 11 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.12,41,47,156.67/- is owed by the defendant to the plaintiff no.1.

3 The defendant, therefore, has admitted its liability. Various other purchases were also funded by the plaintiff and the amount is totaling to a sum of Rs.28,46,23,193.37/-. The plaintiff claim to have received a sum of Rs.17,12,00,000.00/- leaving a balance of Rs.11,34,23,193.37/-. The plaintiff is also claiming processing fees at 1.5% and interest at 17% p.a. and after adjusting the dividends received, the net receivables, according to the plaintiff, from the defendant is Rs.21,42,11,874.37/-.

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.11,34,23,193.37/-,

(b) Add : Processing Fees @ 1.5% - Rs.26,41,693.88/-,

(c) simple interest @ 9% from 4th July, 2012 till 22nd March, 2016 – Rs.4,60,79,462.18/-,

(d) Total Rs.16,21,44,349.43/-,

(e) Less : Dividend received – Rs.33,00,000.00/-

(f) Net receivables Rs.15,88,44,349.43/- together with further interest from 23rd March, 2016 till payment/realisation @ 9% p.a. on Rs.11,34,23,193.37/- and

(g) cost in the sum of Rs.25,000/-.

(K.R.SHRIRAM,J)